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H.R. 701, CONSERVATION AND REINVESTMENT ACT OF 1999, AND H.R. 798, TO PROVIDE FOR THE PERMANENT PROTECTION OF THE RESOURCES OF THE UNITED STATES IN THE YEAR 2000 AND BEYOND

FIELD HEARING

BEFORE THE

COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

JUNE 12, 1999, SALT LAKE CITY, UTAH

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H.R. 701, CONSERVATION AND REINVESTMENT ACT OF 1999, AND H.R. 798, TO PROVIDE FOR THE PERMANENT PROTECTION OF THE RESOURCES OF THE UNITED STATES IN THE YEAR 2000 AND BEYOND

SATURDAY, JUNE 12, 1999

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Salt Lake City, Utah.

The Committee met, pursuant to call, at 11 a.m. in the State Office Building, 1st Floor Auditorium, State Capitol, Salt Lake City, Utah, Hon. James Hansen, presiding.

Mr. HANSEN. [presiding] Good morning. We expect the young lady from Idaho, Mrs. Chenoweth, to join us shortly and the two gentlemen from Utah to be with us. We understand they're both on their way. In fact, one just walked in the door, Representative Cook, we appreciate you coming up and joining us at this time.

Let me give an opening statement here and then we'll get into this hearing. We have a number of people who want to speak and we'll see what we can accommodate here. I want to thank the witnesses, the audience and Members of Congress for attending this field hearing. This is an Official Congressional Hearing of the House Resource Committee. I chair the Committee on Public Lands and National Parks and chairman Don Young has asked me to conduct this full Committee hearing.

The business before us includes H.R. 701, the Conservation and Reinvestment Act of 1999 sponsored by Mr. Young of Alaska, and H.R. 798, the Permanent Protection of America Resources 2000 Act sponsored by Mr. Miller of California.

Some may not be aware of our procedure so let me take a second to explain this. The Committee has invited four panels of witnesses to testify on these two measures and these panels represent differing viewpoints. Each witness has prepared a written statement and will present a summary of that statement during their allocated five minutes time. There are lights on the witness table, you can see them there. It's just like a traffic light. Green means go, yellow means wrap it up, and red means stop. After each panel presents their testimony, each Member of Congress may ask questions of the witnesses. You will also be asked to give us questions back that we will send you in the mail and we would appreciate it if you would give us very comprehensive answers.

The Committee received numerous requests for witnesses to appear today and unfortunately, time constraints limit the number

we can accommodate. We'll try to do our best. However, for those wishing to have their voices heard on these matters they're invited to submit their comments in writing to the Resource Committee within ten days of this hearing. These comments will be made part of the official record and I encourage those interested to submit their views.

Lastly, there are some strong feelings on these issues and we invited some very opposing views to testify today. We respect each witness opinion. We respect your rights to voice those opinions and we expect the witnesses in the audience to do the same.

The issues before us, H.R. 701 and H.R. 708, both attempt to address the problem of Land and Water Conservation Funds being used for purposes not originally intended by Congress. The Land and Water Conservation Fund was developed to reinvest nonrenewable oil and gas revenues into conservation and recreation. The legislation before us reforms these past practices but each bill goes about this in a slightly different fashion. They are both technical measures and both have positive components and address some real problems.

I believe that Mr. Young and Mr. Miller have both come up with some very interesting ideas. They feel that it would benefit hunting, fishing, and wildlife in general. However, other people have different ideas. Moreover, outdoor and urban recreation demands are growing at incredible rates and this funding would greatly help satisfy these pressures. For example, the State of Utah under the Young bill would receive nearly $8 million for wildlife and other programs through state side LWCF and another $6.79 million through Federal LWCF or urban park and recreation. Thus the benefits could be great but Federal dollars rarely come without strings attached. We must ensure we are not being enticed with Federal dollars only to find out they come to us with mandates and actions that hurts our respective states.

I personally have not taken a position on either of these bills. That's one of the reasons that we're doing this here in Salt Lake, so that people in the west part can hear this. Congressional hearings have been held in Washington, DC, Alaska and Louisiana. There has been tremendous interest from all sides and I look forward to hearing from several witnesses from Utah. I would like to expressly thank my own mayor, Gregory Bell, who I haven't seen come in yet, of Farmington, Utah and the Director of Natural Resources for the State of Utah, Kathleen Clarke, who represents Governor Leavitt at this hearing.

Several of the other witnesses have been long-time friends of mine and served the people of Utah or have conducted business in our fine state and I welcome each of you.

Lastly, it is good that we have witnesses from other Rocky Mountain states that are with us at this time. I hope we'll end up with at least four members of the Committee, including myself, the young lady from Idaho has now arrived. We're grateful to Congressman Cook, we're in his district at this time, who also has an interest in this legislation. I will now call upon my colleagues for any opening remarks they may have. Are you ready, Mrs. Chenoweth, or do you want me to go with Mr. Simpson first? Mr. Simpson.

[The prepared statement of Mr. Hansen follows:]

STATEMENT OF HON. JAMES V. HANSEN, A REPRESENATIVE IN CONGRESS FROM THE STATE OF UTAH

The House Resources Committee will come to order.

I want to thank the witnesses, the audience, and Members of Congress for attending this field hearing today. This is an official Congressional hearing of the House Resources Committee that I have been asked to conduct on behalf of Chairman Don Young. The business before us includes H.R. 701, the Conservation and Reinvestment Act of 1999 sponsored by Mr. Young of Alaska and H.R. 798, the Permanent Protection of America's Resources 2000 Act sponsored by Mr. Miller of California.

Some may not be aware of our procedures, so let me take a second to explain. The Committee has invited four panels of witnesses to testify on these two measures and these panels represent differing view points. Each witness has prepared a written statement and will present a summary of that statement during their allocated five minute time frame. There are lights at the witness table. Green means go, yellow means begin wrapping up and red means stop. After each panel presents their testimony, each Member of Congress may ask questions of the witnesses.

The Committee received numerous requests for witnesses to appear today and unfortunately time constraints limit the number we can accommodate. However, for those wishing to have their voice heard on these matters are invited to submit their comments in writing to the Resources Committee within ten days of this hearing. These comments will be made part of the official record and I encourage those interested to submit their views.

Lastly, there are some strong feelings on these issues and we have invited some very opposing views to testify today. We respect each witnesses opinion, we respect your rights to voice those opinions and we expect the witnesses and the audience to do the same.

The issues before us, H.R. 701 and H.R. 798 both attempt to address the problem of Land and Water Conservation Funds being used for purposes not originally intended by Congress. The LWCF was developed to reinvest nonrenewable oil and gas revenues into conservation and recreation. The legislation before us reforms these past practices but each bill goes about this in a slightly different fashion. These are both technical measures and both have positive components that address real problems. I believe that Mr. Young and Mr. Miller both have good ideas. The benefits to hunting, fishing and wildlife in general could be tremendous. Moreover, outdoor and urban recreation demands are growing at incredible rates and this funding would greatly help satisfy these pressures. For example, the State of Utah under the Young bill would receive nearly $8 million for wildlife and other programs through state side LWCF and another $6.79 million through Federal LWCF for urban parks and recreation. Thus, the benefits could be great but Federal dollars rarely come without strings attached. We must insure we are not being enticed with Federal dollars only to find out they come to us with mandates and actions that hurt the State.

I personally have not taken a position on either of these bills and that is the reason for this hearing process. Congressional hearings have been held in Washington DC, Alaska and Louisiana. There has been tremendous interest from all sides and I look forward to hearing from several witnesses from Utah. I would specifically like to welcome my Mayor, Greg Bell, Mayor of Farmington, Utah and the Director of Natural Resources for the State of Utah, Kathleen Clarke who represents Governor Leavitt at this hearing. Several of the other witnesses have been long time friends, served the people of Utah or have conducted businesses in our fine state and I welcome each of you. Lastly, it is good that we have witnesses from other Rocky Mountain states to hear their perspectives.

Welcome to Salt Lake for our Members of Congress who are visiting and I will recognize each Member for an opening statement.

Mr. SIMPSON. Mr. Chairman, I don't have an opening statement but I do want to thank you for holding this hearing. Like you, I have not officially taken a position on this legislation either on either one of these. I am here to learn and to listen to the people that are here to present testimony on this important area of legislation.

I have some concern, as I look at the book in front of you called The Utah Fishing Guide, that most of the maps in the Utah Fishing Guide are of Idaho and that does cause me some concern.

Mr. HANSEN. This book was just given to me and I have to say I'm really looking forward to looking at it. I have this problem. I get an itch in my right hand and the only thing that will cure it, according to my dermatologist, is a fly rod.

Mr. SIMPSON. I understand that itch. Many of us have that itch.

Mr. HANSEN. You have that same itch.

Mr. SIMPSON. Occasionally, yes. But I do appreciate you holding this hearing here and I look forward to listening to the witnesses.

Mr. HANSEN. The young lady from Idaho.

Mrs. CHENOWETH. Thank you, Mr. Chairman. And I want to apologize to you for my tardiness and I would like to ask your permission for my staff to sit up here with us without the suits and the formal requirements of staff.

Mr. HANSEN. Not an objection. So ordered.

Mrs. CHENOWETH. Thank you. Missed flights, missed connections, no sleep, no breakfast, no luggage, so please forgive me but I am ready for this hearing. And Mr. Chairman, I have taken a position on this bill. It is no secret I am adamantly opposed to the bill and have advised the chairman as such before I started working to see us redirect our goals. The freshman class of the 104th Congress is still referred to in the media by many people as that feisty freshman class of the 104th Congress and I can tell you we still fight with the same feistiness for the rights of private ownership.

Mr. Chairman, as I study this bill, the more I study it, the more I realize that this bill again represents the transfer of wealth from the private sector to the public sector. And it's something that I have always been opposed to and it's no secret I'm opposed to this.

Mr. Chairman, I would like to also ask officially for the record if, because so many people were unable to testify and although your generosity extended to me allowed for one more witness, that witness had already made previous commitments and was unable to come by the time I got back to him. But the Wyoming Cattlemen, the Wyoming Farm Bureau, the Oregon Cattlemen, the Washington Cattlemen, Washington Farm Bureau, Mr. Cushman, various other people who asked to testify were denied, not by you, Mr. Chairman, but by some process behind this system were denied the ability to be heard today and so I would again like to ask for the record if we could hold another hearing in the west, either in California or in Oregon or Washington.

Since both representatives are here from Idaho, I know that's futile to ask for a hearing in Idaho. But I would again like to make that recommendation because when we took the majority, we were going to do things differently. We were going to have open hearings so everyone could be heard. And I know that's what your concern is, Mr. Chairman, and so I would like to make that appeal to you and to Mr. Young for the record. Thank you very much.

Mr. HANSEN. Appreciate the young lady's comments. I'm sure we want to have hearings from the public. That's one of the reasons we do these things and we hope that we're representing the public when we act upon legislation. I will make a point to discuss that

with Chairman Young and see what he has to say and maybe the three of us or the members of the Committee can get together and determine how we want to play this.

You mentioned staff. I want to thank all the members of staff who have come out. I know it's always a—it's kind of a chore to do that and they're always so good about it. We appreciate that. Mr. Healey is here from the minority staff. Rick, if you feel that you're inclined to come up here to verbally abuse us or anything else, by all means come on up. Mr. Freemire, our chief counsel and head of the Committee of Public Lands and Parks is sitting to my right and others I probably missed but appreciate all of them for taking the time to be with. Deb, we appreciate you being with us.

The gentleman from the second district in Utah, thank you for allowing us to come into your district, Mr. Cook. We'll turn the time to you for any statement you may have.

Mr. COOK. Well, thank you very much, Mr. Chairman. I'm delighted that you and Mike Simpson and Helen Chenoweth and Alan Freemire and Chris Cannon, who will be here I think in a few minutes, are here in the second district to hold this very important hearing.

Although I'm not a member of the Resources Committee, I really do appreciate, Congressman Hansen, the chairman's gracious invitation to join you today. Unfortunately, I do have a prior engagement with a group of veterans downtown in about half an hour and I won't be able to stay for very long. However, I will be reviewing the Committee record and I'm sure that I can rely on Chairman Hansen to keep me abreast of anything additional that happens here today. The question of how to distribute land and water conservation funds is a very important issue. A concern of mine is that Utah makes sure it gets its fair share. Under H.R. 701 and H.R. 798, the majority of funds from offshore oil revenues will be going to the coastal states such as Louisiana, Texas and Alaska that generate that oil for the country. As a representative from Utah, I find this somewhat disturbing because Utah is a well-known supplier of coal to the country and yet these revenues are taken by the Federal Government and Utah is given no preference with these funds. Now, if full Federal funding is to occur, I think that every state should benefit from the revenues from offshore oil and gas just as the entire country benefits from the revenues that Utah's coal creates.

Utah, I believe, would benefit from some of the programs in this Act but I, like Helen Chenoweth, also have some reservations about parts of the proposals. So like the others here, I've pretty well not made up my mind yet but I'm very interested in the testimony in this hearing today as a way to help me decide exactly how I'm going to vote on this.

Conservation programs, both for land and water, educational efforts and revitalization of existing lands would improve the many outdoor areas and programs already enjoyed by Utahns. I believe this should be done effectively and unobtrusively so it does not damage our state's economy, does not spoil the outdoor experience for those who appreciate it so much. Utah's open space, particularly on the Wasatch Front, is a cherished commodity. We should do everything in our power to ensure that it's not lost.

And I'd like to take this opportunity to point out I think the great activism and leadership that Chairman Hansen's son, Joe, particularly has shown in this area. His commitment to Utah's open space is unrelenting and should be supported, I think, when a chance arises through local and not Federal control.

Finally, I'd like to voice my concern that we must be careful not to increase the system already mired in bureaucracy. The healthy Utah lands and programs must outweigh the headache of more government oversight in the administration. We must assure that taxes will not have to be raised even the slightest to pay for these improvements to our lands. Thank you and I apologize again for having to leave this hearing early.

Mr. HANSEN. Thank you, Mr. Cook. I ask unanimous consent that all the letters that we've received, both for and against these two measures, be included in the record. I have a group here from a number of governors, the National Rifle Association, a number of cities and counties and organizations in support. I know there's a number in opposition that we've also received.

We'll start this hearing with Kathleen Clarke, executive director of the Utah Department of Natural Resources. She's here representing the governor of the State of Utah. She's accompanied by Mr. Courtland Nelson, director of Utah Division of Parks and Recreation and Mr. John Kimball, director of Utah Division of Wildlife Resources.

STATEMENT OF KATHLEEN CLARKE, EXECUTIVE DIRECTOR OF THE UTAH DEPARTMENT OF NATURAL RESOURCES; COURTLAND NELSON, DIRECTOR OF UTAH DIVISION OF PARKS AND RECREATION; JOHN KIMBALL, DIRECTOR OF UTAH DIVISION OF WILDLIFE RESOURCES

Mrs. CLARKE. On behalf of Governor Michael Leavitt we'd like to welcome you to the state of Utah today and thank you, Congressman Hansen and representatives, for the opportunity to speak today on behalf of the Conservation and Reinvestment Act of 1999, the most important national legislation for wildlife conservation, open space and state parks and recreation to reach the floor of Congress in our generation. The Utah Department of Natural Resources stands united in (inaudible) and many local elected officials and representatives of wildlife and outdoor recreation organizations from across Utah in our whole-hearted support of this landmark legislation. Let me give you a few of the reasons why we so support it.

Wildlife-related recreation is in high demand by the citizens of our state as evidenced by a recent study by Utah State University called the Cranitch Report. This was a report that measured public attitudes toward wildlife and wildlife-related recreation in Utah and according to the report, let me quote, "Utahns are highly interested in the state's fish and wildlife resources. Clearly, Utahns place substantial value on the state's wildlife resources and view the protection and enhancement of those resources as important to the quality of life enjoyed by residents of the state."

I want to emphasize here that wildlife-related recreation now takes many forms, from traditional activities such as hunting and fishing, to nonconsumptive activities such as bird watching and

photography. Our mandate from the people of Utah is clear. Yet for too long the funding necessary to manage many species of wildlife and to preserve critical wildlife habitat has been simply unavailable. The same may be said of our state parks and open space initiatives throughout Utah.

Recreation needs have dramatically increased in the past 20 years. An average annual population increase of 2 percent has fueled the demand for more outdoor recreation opportunities and burgeoning urban growth centers from Logan to St. George and as open space disappears and with it wildlife and outdoor opportunity, there is great concern about preserving our quality of life here in Utah, about ensuring the social, economic and yes, even spiritual values that we all draw from direct contact with our natural world. Sadly, funding for parks and recreation facilities and from the Federal Land and Water Conservation Fund has been virtually nonexistent over the last several years. At the same time, our unprecedented population growth has created an even greater need for parks, open space and recreation opportunity.

Since 1964 Utah has received nearly $40 million in land and water conservation funding and this has funded over 400 state parks and recreation projects. Nearly 70 percent of those funds have gone directly to cities and counties for them to design and provide close-to-home recreation opportunities. Some of these include the Dimple Dell Regional Park, Sugarhouse Park, Shepard Lane Park and other regional and neighborhood parks throughout the state.

The fund has also been essential to the development of Utah's state park system and with those funds we have been able to develop such parks as Antelope Island, Bear Lake, Willard Bay, Utah Lake, Wasatch Mountain, Dead Horse Point, Snow Canyon and many others. Unfortunately, in recent years several opportunities to enhance or broaden our parks network have slipped away. Many of our parks and recreation facilities are obsolete. Age and overuse have taken their toll on many of our premier parks. How will CARA help solve these problems? Of course you're all familiar with the three types of CARA and I will briefly for you discuss how they would impact us.

Title II would provide a stable source of funding for a variety of purposes. It would allow us to begin the daunting task of rebuilding our obsolete infrastructure and making needed capital improvements to our state park system to meet the demands of a growing population. CARA would supply matching funds for cooperative state and local projects. It would help us with existing outdoor recreation experiences by allowing us to enhance them in building trails and preserving natural corridors and working cooperatively. It would also provide funding to develop major trails and many other amenities.

Title III of the legislation would provide for comprehensive approach to wildlife conservation funding and provide funding to address those species that are not fished or hunted. The revenues could be used for conservation easements which would leave land in private ownership, mostly farms and ranches, while it would preserve the critical habitat for wildlife. It would pay for wildlife education programs, provide matching funds for communities to de-

velop their own projects and programs to support these objectives. It should be noted that rather than purchase lands, we need to seek conservation easements, leases or cooperative which are the preferred option. Working cooperatively with the Utah Department of Natural Resources, willing land owners may (inaudible) to wildlife habitat while continuing to produce important commodities on their properties. My time is up so——

Mr. HANSEN. No. Finish your statement.

Mrs. CLARKE. Okay. Today fewer than 7 percent of Utah's over 700 resident wildlife species have a steady reliable funding base to support their management. Passage of CARA will be a conservation milestone in Utah and the nation for maintaining wildlife diversity and for keeping many species off the endangered species list. The results of a survey conducted again by Utah State University indicate that Utah statesmen were highly supportive of funding programs to manage the wildlife diversity. Furthermore, given a number of choices, they overwhelmingly preferred having these programs paid for by assessments on energy development.

The message is clear. The Conservation and Reinvestment Act of 1999 is exactly what the people want. A broad variety of outdoor recreation needs were documented during Governor Leavitt's recent Utah Great Outdoors Conference. Representatives from every planning district in the state expressed critical needs for reliable and stable funding to keep pace with Utah's expanding population of outdoor active people. They also identified the need to replace facilities that are being used in new and more impacting ways and to maintain critical habitat for wildlife.

What would CARA ultimately mean for Utah and the nation? It will provide for protection and restoration of our coastal habitats. It will cause land and water conservation activities, providing essential recreation opportunities for our citizens and provide for our consistent and dedicated plan to conserve our precious fish and wildlife resources. All of this will mean that we can maintain our quality of life as our cities and towns experience great economic growth.

Passage of CARA would recommit Congress and this nation to the principle that a part of the revenues earned from depletion of nonrenewable offshore oil and gas reserves should be reinvested in permanent assets that will serve the conservation and recreation needs of all the home owners.

Congressman Hansen and members of this Committee, we stand at a crossroads, faced with an unprecedented opportunity to preserve and enhance our natural resources for generations to come. We encourage you to aggressively work to enact legislation for the sake of our children because if our children lose touch with their natural world, if they don't have a place under the sun to play, if they care more about video games and the Internet than they do about the wildlife and the outdoors, then our precious natural resources will be in trouble and so will our children.

Thank you for your time. And I would be happy to take questions and with your indulgence would invite these two gentlemen to join me in answering your questions since they are the program managers that will be directly responsible for the oversight implementation of the state's acquisitions (inaudible).

Mr. HANSEN. Thank you. Mr. Nelson, anything you'd like to add to Kathleen Clarke's statement? Mr. Kimball, anything you'd like to add? Questions for this panel. The young lady from Idaho is recognized for five minutes.

Mrs. CHENOWETH. Thank you, Mr. Chairman. Before I get into my questioning, I would like to ask for unanimous consent to enter into the record about 2,000 survey questionnaires that Mr. Cushman has accumulated on this issue. Secondly, the testimony of the Washington Farm Bureau, a letter in opposition for the record. Thirdly, the testimony of Fred Grant, who is a constitutional attorney. We were not able to get him on the program. And a publication by Mr. Wayne Hage entitled "Property and War" which may clearly explain why this transfer is occurring in this day and age.

Mr. HANSEN. Is there objection? Hearing none, so ordered.

[The 2,000 Survey Questionnaires will be kept on file at the Committee office in 1324 Longworth House Office Bldg., Washington, DC]

H.R. 701—ADDITIONAL TESTIMONY SUBMITTED FOR THE RECORD FROM MAY 3 THROUGH JUNE 11, 1999

Wentz, Alan
Ducks Unlimited, Inc.

Gordon, Gerald E.
Utah Wildlife Federation

Carpenter, L. Steven
Utah Recreation & Parks Association
Montana Department of Fish, Wildlife and Parks

Pfeiffer, Donald G.
Washington, IA

[The Washington Farm Bureau letter may be found at the end of the hearing.]

[The statement of Fred Grant and The Wayne Hage Article, "Property and War" follows:]

Testimony prepared for submission to the Committee on Natural Resources,
United States House of Representatives

Salt Lake City, Utah----June 12, 1999

Submitted by Fred Kelly Grant
PO Box 1189
Boise, Idaho 83701
208-336-5922

In Behalf of Owyhee County, Idaho
Stewards of the Range
Liberty Matters

Mr. Chairman, members of the Committee:

The western rural counties stand in fiscal jeopardy because of the threats posed by HR 701. Many of the problems created for those counties are related in the attachment to this testimony which is again submitted for your consideration. But today I will address the issue relating to PILT (payments in lieu of taxation) which directly affects these western counties.

As you know, PILT payments today are made from specific appropriations made by Congress, in accordance with a congressionally mandated formula. Each year, the Congress appropriates the amount necessary for PILT payments. But, HR 701 changes the entire concept. Title I provides that the "interest" which is earned on the Fund created by the bill will "without further appropriation" will be available for PILT and other uses.

The first problem created by this provision is that the amount of PILT appropriation will be nearly halved. Even a cursory calculation will demonstrate that the PILT appropriation will amount to no more than $62 million, compared to the approximate $120 million appropriated by Congress for F 99.

Various summaries prepared by proponents of this Bill carry the claim that the Bill provides for a "dedicated" appropriation for PILT, thus is of benefit to the western counties. Nothing could be further from the truth. Problems already exist in those counties where PILT payments are not at the level they should be because of false reporting by such agencies within the Department of Interior as Fish and Wildlife. Those

problems will pale in significance to the problems created by such a massive reduction in the amount available for PILT payments under this Bill.

Moreover, HR 701 turns the PILT program over to the discretion of the Secretary of Interior. Title I is replete with that discretion. Many experts who first found relatively little wrong with the concepts of the Bill changed their minds when they closely read the Bill and discovered the tremendous discretionary powers given to the Secretary---powers which in effect give the Secretary a controlling partner's role in the affairs of states and counties. The Secretary can approve projects---the Secretary can even approve projects which are not consistent with local plans and which have not been approved by local government. The tremendous discretion given to the Secretary by the Bill will turn the PILT program into a personal account with which the Secretary can reward those local governments which follow his lead and punish those which remain independent of his lead.

Those of us who live in, and work with, the rural western counties know the danger which that creates to the independence of local government. We would much prefer to rely upon the good faith appropriations made by Congress than to be forced to rely upon the discretion of a Secretary who has demonstrated a bias against the continued independence of western local government.

Remember,this Secretary has actually called for an end to private ownership of water in the west. In a law review article (23 Environmental Law 933) he claims that the federal government made a grave mistake by adopting a policy that "simply divested federal title to water, leaving water allocation largely in the states". The first problem with the statement is that it demonstrates what little value the Secretary gives to history and to the law. It was not the federal government which gave up "federal title to water". The private ownership of water in the west is tied to the Constitution of the United States and

the Constitutions of the states. The second problem is that the statement relates the bias of the Secretary against the west. He distinguishes the western states from the rest of the United States, in which water is also privately owned but on a different theory.

In the same article the Secretary ties the private control of water to federal subsidization of "a welfare state in the West", says that the western people early learned the "political game" and knew that they had to keep favorable congressmen in office "for life" unless they "were not drunks or total incompetents". He then states that it is time for the rest of the nation "to find the strings to pull the water back, to see if we can find some balance, so that Western water will not just be used, misused, and polluted but instead will be part of a living, sustainable-use, multiple-purpose environment."

It is a real threat that such a biased Secretary will consider PILT payments to be "welfare" payments for the west, and will dispense them accordingly. You all know of course that such is not true. PILT payments do not constitute anything except the congressional recognition of the federal responsibility to pay for lands which are taken from the property tax base of local government. That responsibility is rooted in the Constitutional principles tied to the admission of the states into the Union. But, a Secretary who pays so little attention to history or the law will be able to overlook the legal and constitutional base for such payments.

The Secretary concludes by stating that "the West is an urban place and it is becoming more urban all the time" and that this country must provide for selling the sparce water of the west to the cities. He states:

> Finally, the water problems of the West are going to be solved, not by taking more water for private use, but by setting up markets to reallocate the water we are already using. These markets will allow those who need

> more water and who are willing to pay a higher price to move that water from lower valued uses in a thoughtfully regulated manner."

It is to this Secretary that HR 701 will give vast discretion as to the PILT funds owing to the western states, to the nature of the projects which will be funded, and to uses and control of the projects to be funded. It is the firm belief of the proudly independent Commissioners of Owyhee County, Idaho that it is in the best interests of their citizens to rely upon the good faith and good sense of Congress for annual appropriations of PILT funds rather than to be placed in the hands of such a benevolent Secretary. After all, the framers of the Constitution saw the Congress as managers of the federal lands, and said so. The body of the Constitution contains not a single hint that the executive branch should ever be given such a massive management control tool as that contained in HR 701.

For the reasons stated in this statement, and the reasons stated in the attachment, Owyhee County, Idaho, as well as private property supporters Stewards of the Range and Liberty Matters urge that you carefully consider and then reject the assaults on private property in general and on the western rural counties in particular contained in HR 701.

PRELIMINARY ANALYSIS OF IMPACTS OF H.R. 701 ON PRIVATE PROPERTY, EXPANSION OF FEDERAL AGENCY AGENDAS, AND LOCAL TAXPAYERS

A major assault on private ownership of property has been launched within the Beltway. First, Al Gore announced perhaps the most blatant federal land grab effort in our history. The announcement described a two prong attack on private property: a $10 billion bond program under which bonds would be available to "preserve and enhance green space, create or restore urban parks and buy or get permanent easements on suburban open spaces and threatened wetlands" and a $1 billion program to expand federal wilderness and urban parks. Both programs would aim at accomplishing the transfer of land from private ownership to government ownership and control.

Such an assault on private property from the current administration could be expected. But what should be completely unexpected, and unacceptable, is that the provisions of H.R. 701 introduced by Rep. Don Young, with both Republican and Democrat co-sponsors, are even more threatening to our concept of limited government and the importance of private property. The provisions of this Bill provide for off-line expenditures which can be used for government purchase of private property, the development of government land plans which can adversely effect the use of private property, a full panoply of new federal and state regulations and "guidelines", and the implementation of mini-endangered species acts. Under the provisions of this Bill, such results can be reached without oversight or involvement of members of the Congress or state legislatures.

At a time when federal management agencies complain that they do not have sufficient funds to properly manage the federal lands and national parks which are under their control, this Bill ignores that complaint and attempts to extend government ownership and management even further. Why would members of Congress who for years have opposed the depletion of private property and increase of government ownership of property suddenly reverse their position in such extreme fashion? Rep. Don Young, in the debate just prior to final enactment of the Endangered Species Act, pointed out that his constituents in Alaska had been hard hit by regulatory abuse and that regulatory abuse had to be curbed. He then voted for passage of the ESA and must have retrospectively considered his remarks about regulatory abuse many times in the years since that passage. Now, he is the sponsor of a Bill which allows the Secretary of Interior virtually unbridled authority to issue regulations and guidelines by which property can be managed and impacted by species management.

Even a preliminary review of H.R. 701 reveals the danger it poses to limited government and to private property ownership:

TITLE I.

Section 103 allows the Secretary of Interior discretionary use of the Outer Continental Shelf Impact Assistance Fund. Subsection (b) provides for expenditures "without further appropriation", thus off-budget and outside Congressional appropriations oversight. Combined with the provision of Section 105(c) which allows the Secretary to approve any project submitted by a unit of local government, whether or not the project fits within a state plan or is approved by the Governor, this section allows the Secretary unfettered discretion to expend these funds on any project related to the uses specified in Section 104, including any project related to "air quality, water quality, fish and wildlife (including cooperative or contract research on marine fish), wetlands, or other coastal and estuarine resources."

We know that the current Secretary is not supportive of private property rights. We know his agenda of pushing federal regulatory control over every use of federal property, and of expanding federal control over private property which adjoins or is serviced by federal property. We know his agenda of attempting to limit access to and across federal property, even attempting to limit or eliminate R.S. 2477 rights of way established by Congress. We know his agenda for expanding wilderness and other "no-use" or "limited use" categories to restrict use of federal land, thereby restricting the use of private property which adjoins federal land or is an in-holding.

Why would we believe that he will use the discretion given to him by H.R. 701 to do anything other than further his anti-private property agenda? It is a foregone conclusion that the projects which will be funded will be those which fit within the regulatory scheme designed to further this anti-private property agenda. As with every other federal "grant" program ever implemented, the Secretary will find it necessary to spell out regulations, even though they may be called "guidelines" or "conditions", which will set forth the specific goals to be attained by any project which is funded. As a result, as with every other federal grant program, the money will be used to further the agenda prepared and developed by the federal bureaucracy. Those of us who are familiar with a grant program, such as the ill-fated Law Enforcement Assistance Administration of two decades ago, know that the federal management agency lays down the "guidelines" to further the federal agenda, and local government complies with those guidelines in order to get the money offered. Section 103 provides the Secretary with the discretion to implement federal programs, through the funding of state and local projects, without interference from the normal appropriations oversight of Congress.

Several other provisions of the Bill will give the Secretary all the room he needs to issue regulations and guidelines by which projects will be funded in furtherance of his agenda. Section 105 requires the Governor of each eligible state to "develop a State plan for the use of such moneys and shall certify the plan to the Secretary." The first question which each eligible Governor will ask is "Where are the guidelines for development of the state plan?" Every "state plan" which is developed in order to confirm eligibility for federal funds is prepared and developed in accordance with guidelines issued by the management federal agency. Referring again to the Law Enforcement Assistance Administration and law enforcement grants during the late 1960s and early to mid 1970s, each state was required to develop a "state plan" to the LEAA in order to qualify for law enforcement funds. But, each state plan had to be prepared in accordance with LEAA guidelines as to what had to be included in the plan, and what types of goals should be set by the plan. If the state plan did not meet the federal guidelines, there was no qualification for funding. In the state of Idaho, for example, much creative and imaginative writing was devoted to the presence of organized crime and the need for money to combat its spread---not because of a real threat of organized crime but because there was a section of federal guidelines as to organized crime which had to be satisfied in order to qualify for funding. The LEAA experience is not different from every other federal funding program---there will be guidelines, regulations and conditions which will guide the development of "state plans" called for by Section 105(a). The result can easily be the proliferation of the federal anti-private property agenda throughout every eligible state.

One advantage to the Secretary of being able to spend these funds through projects linked to a state plan rather than to a federal plan is that he will be able to accomplish goals which he might be unable to reach under the statutory language by which he is directed to manage federal lands. We know that this Secretary has been known to work in a manner designed to avoid Congressional restrictions. For example, in certain instances involving livestock grazing on the federal lands, where the Secretary must obey at least some minimal congressional mandates, his agency has attempted to reach unattainable federal non-use goals by persuading state agencies to place restrictions on grazing

which would also accomplish the federal goal. In one state, the Secretary's agency wanted to impose a grazing season terminal date of mid-July which would have destroyed the feasibility of grazing on the federal lands. With no scientific basis to support such restriction, the agency convinced the State Land Department to consider imposition of such a terminal date on state leased lands, which would also accomplish the establishment of the terminal date on the intermingled federal lands. Private property owners had to seek, and obtain, a state legislative committee hearing on oversight to block the attempt.

Under the provisions of H.R. 701 the Secretary can accomplish his federal agenda by putting in place "Guidelines for State Plan Development" which will lead the eligible states into the design of plans which will meet the federal goals to the detriment of private land owners who often have little or no lobbying interest voice in the Governor's office.

Projects to be funded for local government must be consistent with the State Plans (Section 105 (b and c), so they too will have to be consistent with the federal goals provided for by the federal guidelines for plan and project development which will follow from passage of this Bill just as Sunday morning follows Saturday night. And, not even the Governor can protect private property interests from a local project which he believes to be unduly restrictive to property owners. Section 105 (c) provides that if the Governor does not approve a project, the Secretary may in his discretion approve the project.

In short, Title I provides the Secretary with discretion to expand his authority over use of property by issuing regulations and guidelines which require compliance of state plans and state and local projects with the Secretary's anti-private property agenda. Without any oversight by Congress, he can spend the funds, off-budget, to promulate his goals through state and local government agencies.

TITLE II

This Title allows discretion to both the Secretaries of Agriculture and Interior to acquire private property and convert it to federal ownership. Again, the expenditures for such acquisitions shall be off-budget and not subject to Congressional scrutiny. Section 202 (c) allows the Secretary of Interior to acquire "lands, waters or interests in land or water solely within the exterior boundaries of areas of the National Park System, National Wildlife Refuge System, or any other land management unit established by Act of Congress and managed by the Secretary of the Interior." What does the phrase "within the exterior boundaries of" the specified areas mean? It could be read to mean that the Secretary could acquire private property anywhere within the state of Oregon which is a "land management unit" operated and managed under the Federal Land Policy Management Act. With such broad meaning, the Secretary will have unfettered ability to buy up private property and remove it from the property tax base of the affected local government. Currently, under FLPMA, the Secretary's representatives in the BLM must consult with the local governing board as to economic impact of such property transfers. Under Section 202 (c), the Secretary could evade that responsibility toward local government. Likewise, the Secretary could buy water rights, the use of which will adversely impact private water rights which use the same source. If the Secretary then puts the acquired water to a beneficial use which protects a species, that use will adversely affect the use of other water users as well as adjoining private land owners under the regulatory aspects of the Endangered Species Act.

Moreover, by purchasing private land and/or water, the Secretary can extend federal controls to other private lands which adjoin the land and/or water purchased under this Bill. The Courts have made it clear, even aside from Endangered Species considerations, that with federal ownership of land goes the power to control use of adjoining property. In Camfield v. United States, 167 U.S. 518, the Court confirmed the power of the federal government to abate fences on adjacent land; in U.S. v. Lindsey, 595 F.2d 5 (9th Cir. 1979), the Court recognized the power of the federal government to punish persons who built a campfire on non-federal land adjacent to a national recreation area; in U.S. v. Arbo, 691 F.2d 862 (9th Cir 1982) the Court ruled that a person could be charged with interference with a federal Forest Service officer even when the action took place on non-federal property which was adjacent to federal property; and in Free Enterprise Canoe Renters Association v. Watt, 549 F. Supp. 252 (E.D. Mo. 1982) the Court held that the National Park Service could prohibit the use of state roads for canoe pickups within a federal Scenic Riverway.

So, in Title II, the Congress would turn over to the absolute discretion of the Secretary of Interior and Agriculture to increase federal holdings at the tax-base expense of local government, and to adversely impact use and value of private lands and waters which adjoin those added to federal management.

By what standards would such acquired lands be managed? The Bill does not specify whether lands purchased by the Secretaries under this Bill would have to be managed under the statutory mandates already applicable to the Secretaries. Would the Secretaries have unfettered discretion as to management of the acquired lands, providing the lands were used for one of the purposes set forth in the Bill? If so, then the Congress not only would be granting uncontrolled purchase authority to the cabinet members of the Executive branch but also uncontrolled management of the lands and waters so acquired.

An ultimate impact of this Title may well be the devaluation of private property in areas adjoining the lands and/or waters acquired. If the Secretary buys a piece of private property and its water rights to convert to some restrictive species protection area, for example, the value of the adjoining property will go down because of resulting restrictions on use. In many instances the value of that adjoining property may well go so far down that the only available purchaser is the Secretary who can then acquire even further property at a bargain basement price.

The sponsor of the Bill states that there is private property protection built into the sentence which reads: "No moneys available under this paragraph for Federal purposes shall be used for condemnation of any interest in property." That is not private property protection. There would be more protection, in fact, if the Secretary were required to seek condemnation because that would mean that a judicial body would be fixing a market price. That would be more consistent with the Fifth Amendment and its "takings" provisions. As it stands, the Secretary is left to any means of acquisition which he deems fit, including those means which lower adjoining property values.

The Title also calls for grants to states to supplement state funds used for outdoor conservation and recreation planning, acquisition, or development. The provisions calling for state "action agenda" development and "Comprehensive State Plans" carry with them the same conditions described in the discussion of Title I. The state plans and agendas will be prepared in accordance with federal guidelines and regulations. When a federal agency says to a state representative that the Secretary would certainly like to fund a project to accomplish goal "x", and that it would be possible to include with federal goal "x" a local goal of "y", the state will write its project in that manner.

And, we can be sure that federal goal "x" will not be compatible with private ownership and open access.

With every purchase of property for an urban park or land set aside, will go the cost of not only losing the tax-base value but also the future cost of upkeep and maintenance. During prior administrations, local governments were encouraged to hire additional personnel under a Comprehensive Employment Training program. The carrot was that the local government would only have to pay 25% of the salary for the first year, 50% the second year, 75% the third year, and then the entire salary. Many local governments jumped at the chance to increase personnel for such small cost, without considering where the increased revenues would come from to pay the full salary in the fourth year. Many positions filled under the program had to be eliminated once the federal funding ran out. But, with maintenance and upkeep of property, the government cannot simply eliminate the cost after a fourth year. It will be necessary to maintain and upkeep that property in perpetuity. That cost will be paid by private property owners who pay an ad valorem tax.

Even though the Secretary can adversely impact the use and/or value of private property adjoining any land or water acquired, Section 204 is touted as being a protection for private property owners because it provides: "Nothing in this title shall be construed to limit any right to compensation that exists under the Constitution or other laws." Surely private property owners will be grateful that the sponsor felt compelled to offer that this Bill would not usurp and set aside the Fifth Amendment to the United States Constitution. This Title cannot limit the Fifth Amendment right to compensation for a takings of property even it the sponsor wanted it to. So, to offer this language as a bone to private property interests is insulting at best.

TITLE III

Under the guise of furthering outdoor sports and wildlife activities, Title III effectively establishes the foundation for multiple mini-endangered species programs which would be broader even than the ESA because they would encompass "game and non-game wildlife" whether the species was entitled to ESA protection or not. The Title states as one purpose the assurance of "conservation" policies, and "conservation" is defined as including all means and methods "necessary or desirable" to sustain "healthy populations of wildlife" including "periodic or total protection of a species or population." (See Section 303 (d), and note all the other goals stated there including "acquisition, improvement and management of habitat.")

Section 303 (d) also authorizes the State receiving a federal grant to then contract with a federal agency or give a grant to a federal agency to implement projects. So, the Secretary can award a grant to a state for the purpose of contracting with the Secretary to implement the state's project. When such contract is entered into, or if the state gives a grant to the Secretary, are the federal implementing personnel subject to the personnel appropriations authority of Congress. Or does the Secretary have free reign with such contract personnel to carry out his agenda outside the oversight of Congress. Given the Secretary's track record, given the record and announced agenda of the Administration, can there be any real doubt that the Secretary will push his reign to the fullest?

Imagine the prospects of the Secretary awarding a grant to a state for the purpose of protecting a non-game species such as the spotted frog (which so far the federal agencies have found no basis for listing), under a grant calling for the state to contract with the federal agency to implement the conservation program for the frog. The Secretary, within his various congressional

mandates to coordinate with state programs then could take whatever management action he desired in order to coordinate with the state program being implemented by his own agency. Private property owners would again be at the mercy of the absolute discretion of the Secretary, who would be operating under the authority granted him by this Bill.

The mini-endangered species programs which could be established under this Bill would have far reaching effects on the use and value of adjoining private property, and the possible jurisdictional limits of the Endangered Species Act because of its reliance on the interstate commerce clause in the Constitution would be evaded with such state programs.

The above discussion does not detail every flaw in this Bill, but simply tries to hit the high spots which mean real trouble for private property owners, and for state and local taxpayers. The awesome discretion given to cabinet officers by this Bill will allow the federal government in many instances to avoid the fiscal responsibility of "takings" because the federal agencies will be able to accomplish their goals through state and local actions. Since those actions mainly involve the Governor's office and local "grant writers", in most cases the elected legislators who most directly represent the people will be left out of the process even though it is they who must find the revenue to pay for the programs on a long-term basis. Those legislators will not even be able to carefully provide for future maintenance and upkeep because there will be unforeseen costs such as "takings" compensation. For, if a property owner seeks a "takings" action, the defendant may well be the state government or local government which implemented a program with federal funds, thus again adding to the tax burden of state and local taxpayers. By providing for direct acquisition of property by federal agencies and by providing for accomplishment of federal property agendas through the use of state and local governments, this Bill permits this Administration to continue the growth of an unlimited executive. The concept is not consistent with our history, with the thoughts of liberty which were held by our founders, or with the limited government sought by our Constitution.



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Preliminary Analysis of Impacts of H.R. 701 on Private Property, Expansion of Federal Agency Agendas, and Local Taxpayers

Prepared by Fred Kelly Grant
March 18, 1999

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*"In Matters of Principle
Stand Like a Rock"*
Thomas Jefferson

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A major assault on private ownership of property has been launched within the Beltway. First, Al Gore announced perhaps the most blatant federal land grab effort in our history. The announcement described a two prong attack on private property: a $10 billion bond program under which bonds would be available to "preserve and enhance green space, create or restore urban parks and buy or get permanent easements on suburban open spaces and threatened wetlands" and a $1 billion program to expand federal wilderness and urban parks. Both programs would aim at accomplishing the transfer of land from private ownership to government ownership and control.

Such an assault on private property from the current administration could be expected. But what should be completely unexpected, and unacceptable, is that the provisions of H.R. 701 introduced by Rep. Don Young, with both Republican and Democrat co-sponsors, are even more threatening to our concept of limited government and the importance of private property. The provisions of this Bill provide for off-line expenditures which can be used for government purchase of private property, the development of government land plans which can adversely effect the use of private property, a full panolopy of new federal and state regulations and "guidelines", and the implementation of mini-endangered species acts. Under the provisions of this Bill, such results can be reached without oversight or involvement of members of the Congress or state legislatures.

At a time when federal management agencies complain that they do not have sufficient funds to properly manage the federal lands and national parks which are under their control, this Bill ignores that complaint and attempts to extend government ownership and management even further. Why would members of Congress who for years have opposed the depletion of private property and increase of government ownership of property suddenly reverse their position in such extreme fashion? Rep. Don Young, in the debate just prior to final enactment of the Endangered Species Act, pointed out that his constituents in Alaska had been hard hit by regulatory abuse and that regulatory abuse had to be curbed. He then voted for passage of the ESA and must have retrospectively considered his remarks about regulatory abuse many times in the years since that passage. Now, he is the sponsor of a Bill which allows the Secretary of Interior virtually unbridled authority to issue regulations and guidelines by which property can be managed and impacted by species management.

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TITLE II

This Title allows discretion to both the Secretaries of Agriculture and Interior to acquire private property and convert it to federal ownership. Again, the expenditures for such acquisitions shall be off-budget and not subject to Congressional scrutiny. Section 202 (c) allows the Secretary of Interior to acquire "lands, waters or interests in land or water solely within the exterior boundaries of areas of the National Park System, National Wildlife Refuge System, or any other land management unit established by Act of Congress and managed by the Secretary of the Interior." What does the phrase "within the exterior boundaries of" the specified areas mean? It could be read to mean that the Secretary could acquire private property anywhere within the state of Oregon which is a "land management unit" operated and managed under the Federal Land Policy Management Act. With such broad meaning, the Secretary will have unfettered ability to buy up private property and remove it from the property tax base of the affected local government. Currently, under FLPMA, the Secretary's representatives in the BLM must consult with the local governing board as to economic impact of such property transfers. Under Section 202 (c), the Secretary could evade that responsibility toward local government. Likewise, the Secretary could buy water rights, the use of which will adversely impact private water rights which use the same source. If the Secretary then puts the acquired water to a beneficial use which protects a species, that use will adversely affect the use of other water users as well as adjoining private land owners under the regulatory aspects of the Endangered Species Act.

Moreover, by purchasing private land and/or water, the Secretary can extend federal controls to other private lands which adjoin the land and/or water purchased under this Bill. The Courts have made it clear, even aside from Endangered Species considerations, that with federal ownership of land goes the power to control use of adjoining property. In Camfield v. United States, 167 U.S. 518, the Court confirmed the power of the federal government to abate fences on adjacent land; in U.S. v. Lindsey, 595 F.2d 5 (9th Cir. 1979), the Court recognized the power of the federal government to punish persons who built a campfire on non-federal land adjacent to a national recreation area; in U.S. v. Arbo, 691 F.2d 862 (9th Cir 1982) the Court ruled that a person could be charged with interference with a federal Forest Service officer even when the action took place on non-federal property which was adjacent to federal property; and in Free Enterprise Canoe Renters Association v. Watt, 549 F. Supp. 252 (E.D. Mo. 1982) the Court held that the National Park Service could prohibit the use of state roads for canoe pickups within a federal Scenic Riverway.

So, in Title II, the Congress would turn over to the absolute discretion of the Secretary of Interior and Agriculture to increase federal holdings at the tax-base expense of local government, and to adversely impact use and value of private lands and waters which adjoin those added to federal management.

By what standards would such acquired lands be managed? The Bill does not specify whether lands purchased by the Secretaries under this Bill would have to be managed under the statutory mandates already applicable to the Secretaries. Would the Secretaries have unfettered discretion as to management of the acquired lands, providing the lands were used for one of the purposes set forth in the Bill? If so, then the Congress not only would be granting uncontrolled purchase authority to the cabinet members of the Executive branch but also uncontrolled management of the lands and waters so acquired.

An ultimate impact of this Title may well be the devaluation of private property in areas adjoining the lands and/or waters acquired. If the Secretary buys a piece of private property and its water rights to convert to some restrictive species protection area, for example, the value of the adjoining property will go down because of resulting restrictions on use. In many instances the value of that adjoining property may well go so far down that the only available purchaser is the Secretary who can then acquire even further property at a bargain basement price.

The sponsor of the Bill states that there is private property protection built into the sentence which reads: "No moneys available under this paragraph for Federal purposes shall be used for condemnation of any interest in property." That is not private property protection. There would be more protection, in fact, if the Secretary were required to seek condemnation because that would mean that a judicial body would be fixing a market price. That would be more consistent with the Fifth Amendment and its "takings" provisions. As it stands, the Secretary is left to any means of acquisition which he deems fit, including those means which lower adjoining property values.

The Title also calls for grants to states to supplement state funds used for outdoor conservation and recreation planning, acquisition, or development. The provisions calling for state "action agenda" development and "Comprehensive State Plans" carry with them the same conditions described in the discussion of Title I. The state plans and agendas will be prepared in accordance with federal guidelines and regulations. When a federal agency says to a state representative that the Secretary would certainly like to fund a project to accomplish goal "x", and that it would be possible to include with federal goal "x" a local goal of "y", the state will write its project in that manner.

And, we can be sure that federal goal "x" will not be compatible with private ownership and open access.

With every purchase of property for an urban park or land set aside, will go the cost of not only losing the tax-base value but also the future cost of upkeep and maintenance. During prior administrations, local governments were encouraged to hire additional personnel under a Comprehensive Employment Training program. The carrot was that the local government would only have to pay 25% of the salary for the first year, 50% the second year, 75% the third year, and then the entire salary. Many local governments jumped at the chance to increase personnel for such small cost, without considering where the increased revenues would come from to pay the full salary in the fourth year. Many positions filled under the program had to be eliminated once the federal funding ran out. But, with maintenance and upkeep of property, the government cannot simply eliminate the cost after a fourth year. It will be necessary to maintain and upkeep that property in perpetuity. That cost will be paid by private property owners who pay an ad valorem tax.

Even though the Secretary can adversely impact the use and/or value of private property adjoining any land or water acquired, Section 204 is touted as being a protection for private property owners because it provides: "Nothing in this title shall be construed to limit any right to compensation that exists under the Constitution or other laws." Surely private property owners will be grateful that the sponsor felt compelled to offer that this Bill would not usurp and set aside the Fifth Amendment to the United States Constitution. This Title cannot limit the Fifth Amendment right to compensation for a takings of property even it the sponsor wanted it to. So, to offer this language as a bone to private property interests is insulting at best.

TITLE III.

Under the guise of furthering outdoor sports and wildlife activities, Title III effectively establishes the foundation for multiple mini-endangered species programs which would be broader even than the ESA because they would encompass "game and non-game wildlife" whether the species was entitled to ESA protection or not. The Title states as one purpose the assurance of "conservation" policies, and "conservation" is defined as including all means and methods "necessary or desirable" to sustain "healthy populations of wildlife" including "periodic or total protection of a species or population." (See Section 303 (d), and note all the other goals stated there including "acquisition, improvement and management of habitat.")

Section 303 (d) also authorizes the State receiving a federal grant to then contract with a federal agency or give a grant to a federal agency to implement projects. So, the Secretary can award a grant to a state for the purpose of contracting with the Secretary to implement the state's project. When such contract is entered into, or if the state gives a grant to the Secretary, are the federal implementing personnel subject to the personnel appropriations authority of Congress. Or does the Secretary have free reign with such contract personnel to carry out his agenda outside the oversight of Congress. Given the Secretary's track record, given the record and announced agenda of the Administration, can there be any real doubt that the Secretary will push his reign to the fullest?

Imagine the prospects of the Secretary awarding a grant to a state for the purpose of protecting a non-game species such as the spotted frog (which so far the federal agencies have found no basis for listing), under a grant calling for the state to contract with the federal agency to implement the conservation program for the frog. The Secretary, within his various congressional

Property and War

E Wayne Hage

The growing imbalance of power between the executive and legestative branches of government has sparked growing concern in congress and among the general public. The executive branch seems increasingly willing to engage in acts of war without a formal declaration of war by congress, as provided by the constitution of the United States. Thirty two times since 1988, the executive branch of the United States government has committed troops to foreign conflicts without a declaration of war by congress. By comparison, in the sixty years preceeding 1988 U. S. troops were deployed overseas only ten times, and then only after a formal declaration of war or at least ,tacit approval by the national legislature.

The war in Kosovo,currently raging in south-eastern Europe, is a case in point. The president has committed U.S. armed forces to an increasingly dangerous military conflict without a formal declaration of war, and in fact, in direct opposition to the express will of congress. How is the executive branch able to circumvent the approval of the representatives of the American people for making war? Many want an answer to this question.

The answer lies in understanding a fundamental difference between free societies and corercive societies. A free society is of necessity based on private ownership of property. In other words, in a free society the people own the resource base; the land. All wealth originates in the land; and by extension the sea. A free society is maintained on the principle that the people, not the government, owns the wealth. A government of a people who own and control the wealth of the nation is a government which must come to the people for its operating budget. This funding of government projects is accomplished through taxation of the peoples' wealth.

A government which must come to the citizens for its' operating budget is a government which must listen to what the citizens have to say. It followes then ,that government in a free society, derives its' powers from the consent of the governed.

The united states were founded on this very principle. When the common fund lands, those lands generally to the west of the original thirteen states and east of the Mississippi river, were conveyed to the federal government by the states after the revolutionary war, those lands were conveyed with strict restraints on their future disposition. Congress could sell those lands, only to actual settlers. The proceeds from those sales could be used for one primary purpose; to retire the revolutionary war debt. Congress was strictly prohibited by the articles of conveyance from retaining those lands as a federal asset or from using those lands as a collateral base to secure a perpetual debt.

The European bond holders who had financed the revolutionary war were generally in favor of a policy which would secure the debt by a mortgage on the western lands and resources of the new United States. This had been a practice of long standing in Europe. It gave European banks and financiers considerable control over the nations and peoples whose lands and resources they had thus encumbered. A paramount concern of the people of the new nation, was to avoid being caught up in the political and military conflicts of Europe which were largely caused by nations borrowing against their land and natural resources to wage war. Bankers could finance both sides of a conflict. Which ever nation was victorious could find itself owing both debts plus interest on the debt. If the debt was not paid the creditor had access to the wealth of natural resources which secured the debt. If a nation resisted the creditors access to its mines, timber, crop lands, grazing lands and fisheries, the creditor could finance another indebted nation to make war on the recalcitrant mortgagee.

Under the European monarchist system, the king was the ultimate title holder of land and resources. The individual subject usually only controlled land or natural resources on conditional privilege from the crown. Consequently,if the crown determined to mortgage the land of a subject to finance a foreign venture or internal projects, the subjects` hold on the land could be lost if the crown defaulted on the debt.

The founders of the united states' constitutional form of government were careful to create a system which would guard against control of our natural resource wealth by foreign interests. They created a system of government based on the principle of private ownership of the resource base. This they felt was the best safeguard against the federal government ever gaining the power to act independently of the will of the people.

For the first ninety years of the United States existence an effective effort was maintained to pay foreign debt rather than to secure the debt with assets of the United States. This policy was made possible by an ever expanding frontier in which the lands and resources could be sold to settlers and entrepreneurs. By the end of the civil war two basic factors in the American equation had changed. Number one; the united states were faced with their largest external debt ever; and number two; the arid far western frontier consisted of a limited supply of lands which could be sold for revenue under the, then existing, land disposal laws.

A policy formally begun in 1866, eventually evolved into a system of land disposal which was at once designed to allow collateralization of debt while preventing an actual occupation of the land by foreign or unwanted interests. The policy of split estate disposal of the Wests' mineral lands allowed settlement of the surface of these vast regions of arid lands while retaining the mineral estate by the federal government for separate disposal under the mining laws. This system of land disposal not only made possible the securing of the outstanding debt, it also gave

the federal government a source of revenue independent from direct taxes on the citizens of the united states. The age of United States imperialism with its attendant deficit spending had been born.

Throughout this period of transition in government policy from one of land disposal to the current policy of land retention and confiscation, debt and deficit have grown correspondently. Congress and the courts exercised considerable restraint on debt accumulation and private property confiscation for the sixty years following the civil war. Congress and the courts stopped the "India plan" of the 1870s, designed to collateralize transcontinental railroad debt with western grazing lands and water. Congress and the courts defeated essentiallv the same schemes masquerading under the name of reclamation, in 1890. The conservation movement, of the late nineteenth and early twentieth centuries, accomplished the nationalization of vast areas of the west and Alaskas' natural resources in the form of national parks, national forests,national wildlife refuges, etc., but both congress and the courts operated to protect private interests in the nationalized lands.

By the nineteen sixties however, private property confiscation had come into its own under the banner of environmentalism. Ownership is defined as control of property rights. If government controls the use of property through regulation, then government,for all practical purposes, owns. And what government owns it can mortgage. Today, resource agencies of the federal government have become the tools of the environmental movement. The environmental movement performs the function of transferring land and natural resources from private interests to government ownership and control under the guise of protecting the environment. The environmental movement is primarily funded by the same international financial interests who hold the major portion of the U.S. treasury debt.

Congress and the courts, over the past thirty years, have increasingly turned from their constitutional duty to protect the property of their constituents and have increasingly passed the laws and rendered the decisions which are making the wholesale plunder of the peoples' property possible. As the debt increases, so too does the need for more laws, regulations and court rulings, to "protect the environment".

A coercive form of government is premised on government ownership of the wealth. If government owns or controls the land and natural resources, in contravention of private property rights, it controls the wealth. A government which has acquired sufficient collateral base to fund its own initiatives through borrowing against what once was the peoples' property, no longer has to listen to what the people, or the peoples elected representatives, have to say; whether it be the war in Kosovo, or any other matter.

Mrs. CHENOWETH. Thank you, Mr. Chairman. Mrs. Clarke, I wanted to ask you, Utah has a——

Mr. HANSEN. We ought to get that mike a little closer, if you would, Mrs. Chenoweth, so that they can pick it up over here.

Mrs. CHENOWETH. Thank you very much. Mrs. Clarke, I wanted to ask you, Utah now has about 65 percent of its land base in Federal ownership and you are supporting more of that in the Open Spaces Title II element of this bill. How much does Utah have to give? Is it 70 percent, 80 percent? Where are you going to draw the line?

Mrs. CLARKE. I think our primary interest in supporting this bill is the state side funding that would come to us to allow us to utilize monies for development of local recreation initiatives. Funding that traditionally has been used on the Federal side has only been used in this state at the will and desires of the people. It's always had a congressional sponsor and been strongly supported for very specific reasons. So we have not experienced abuses in the dealing of Federal money on this.

And there may have been some very appropriate uses. We have received money from this to help deal with the endangered species in Washington County. We have a habitat conservation program down there and without the Federal funding, that would have been a tremendous burden on that community down there to deal with that endangered species and funding has come from the Federal sides of that program. So there have been very appropriate uses.

Mrs. CHENOWETH. Thank you, Mrs. Clarke. How much of a percentage are you willing to give up of Utah to the Federal Government? Is it 65 percent, 70, 75? Where are you going to draw the line? Where is the state going to stand up and say we've had enough?

Mrs. CLARKE. I think we need to draw that line on individual specifics. Like I say, there are instances where we have welcomed some Federal participation and Federal funding but our focus really is on getting the acquisition, the opportunity to deal with the state side issues. It may be these gentlemen would like to add something from their perspective as they've dealt with that Federal piece.

Mrs. CHENOWETH. I think it's important to have an end goal in mind. How much is the state willing to give up to the Federal Government? It's at 65 percent now. Are you willing to draw the line at 70 percent or 75 or 80 or 85? Where does it stop?

Mrs. CLARKE. I don't think any of us want to see an increase in Federal ownership of land in this state.

Mrs. CHENOWETH. Could you help define for me what open space means?

Mr. KIMBALL. Yes, ma'am. I think from a wildlife standpoint at least, open space is basically wildlife habitat and it's to some extent difficult to call it open space because many of the critical habitats in our state are really surrounded by public land, as you pointed out, but open space is critical for wildlife for the same reasons it was critical for pioneers that moved here. They settled on these lands and they developed these lands and currently those lands support vital elements of wildlife resources and our desire, really

from a wildlife standpoint, is to maintain the uses of those lands and the wildlife populations that they support right now.

You were talking about Federal ownership and I think from a wildlife standpoint we're not interested in even state ownership of these lands. We're simply interested in trying to maintain these lands in the situation or condition that allow them to support wildlife populations.

Mrs. CHENOWETH. Mr. Kimball—if the chairman will just allow me one more question. By definition in this bill, wildlife is termed and defined and wildlife associated recreation is defined as that which can meet the demand for outdoor activities associated with wildlife including but not limited to hunting, fishing, restoration of wildlife viewing areas, observation towers, blinds, platforms, land and water trails, wildlife conservation, education and it also includes game and nongame wildlife. I mean, it could be anything, plant or animal or anything that appears on private property or Federal property or state property. So you see, we're not drawing the boundaries very well in terms of where this ends and what the boundaries of this bill really are. Thank you, Mr. Chairman.

Mr. HANSEN. The gentleman from Idaho, Mr. Simpson, is recognized for five minutes.

Mr. SIMPSON. Thank you. I appreciate your testimony here today. And let me tell you where I'm coming from and some of the reasons that I haven't taken a position on this bill yet. On the one hand I see the advantages of this having served on a local city council and used Land and Water Conservation Funds and made communities more livable by providing recreational facilities for the youth and adults in those communities. I think those Land and Water Conservation Funds are very important and I would like to see those funds replenished. This legislation obviously would put money back into those sorts of activities.

And I think that we have to have livable communities, means we have to have recreational facilities available for both our youth and our adults and we need to upgrade in Idaho, as I'm sure in Utah, our parks. We have insufficient funding to maintain the current park system we have, let alone expand it for the use of the people around this state. Oftentimes people in Idaho cannot even get a reservation in a state park because of the unavailability of spaces. You call January 1st and by the end of the day, they're filled up for the rest of the year. And so the people of Idaho really need those recreational opportunities and recreational spaces.

On the other side there's a great deal of concern about, as was just mentioned by the other congressman from Idaho, about private property rights and Federal ownership and more ownership of Federal land. Would you support or could you see an amendment to this being beneficial which would be a no net gain type of amendment which if the state or the Federal Government were to purchase land, private land and take it off the tax rolls, that it would have to give up land currently owned by the Federal Government so that in the state there would effectively be a no net gain?

Mrs. CLARKE. Mr. Nelson asked in he could respond to this question, so I defer.

Mr. NELSON. Mr. Chairman, Representative Simpson, I think that is a working title that has lots of value. We have that same

situation in Utah right now with our land acquisition within the state government. And while it is sometimes hard to pin down exactly the formula which should be used for that and under what conditions, I think we have been successful in achieving that goal and objective. As to whether that would work with the Federal Government or not, I think it would be a concept that could be massaged and could seek the support of some Federal agencies who are those most directly impacted (inaudible).

Most of our acquisition on the state side comes from those local communities, five, 10, 15, 20 acres. None of us deal anymore without partnerships. And my personal experience here in Arizona as the director, almost every acquisition involves a willing seller who is very interested in us taking over their property at a fair market value or at a compensated value below that for tax purposes and they in fact are bringing to us opportunities. How that particular scenario fits into a no net loss for a state agency, we have been able to work that out and I would think that would have some potential with the Federal Government in the vast (inaudible).

The difference, and I would think Mr. Kimball may want to speak about this federally, is that the critical lands for play, for the wildlife habitat, are those that everybody seeks for the most part, as opposed to let's say some desert environment or some hard to access areas that the Federal Government would own and may not have for the near future any good public recreation or wildlife use.

Mr. SIMPSON. You mentioned that yours at the state level it's a willing seller/willing buyer provision.

Mrs. CLARKE. Always.

Mr. SIMPSON. It's my understanding under this provision, under this statute, that the Federal Government would not be able to condemn land. It would have to be willing seller/willing buyer; is that as you understand it?

Mr. NELSON. That is the case. We haven't used the eminent domain type thing one time in 25 years and I would never propose that in this day and age. As I said, for the most part my experience has been completely the opposite. This was the case down in St. George with our habitat conservation but we have been scrambling to meet the needs of these land owners (inaudible).

Mrs. CLARKE. That philosophy is consistent throughout the department. We never want to be heavy handed. There's some wonderful programs in wildlife where we're working on conservation easements but always the goal is to leave the land in private ownership. We have a state private property ombudsman. We may be one of the only states in the country that has that because of our commitment to private property rights. That person is housed and totally supported in my department and we often consult them to make sure we are not treading on private property rights.

Mr. SIMPSON. Well, I compliment you for that.

Mr. KIMBALL. I would just second what Courtland said and that's the fact that our interest is in maintaining wildlife habitat. It's not in owning or managing lands and we feel like the traditional uses that are there are currently supporting the wildlife habitats that we're interested in maintaining. So it's working with those traditional occupants of those lands and the industry that supports them that keeps them there. That's where our interest is.

Mr. SIMPSON. Again, I thank you for your testimony.

Mr. HANSEN. The gentleman from the second district in Utah, if you have questions we'll recognize you five minutes.

Mr. COOK. Thank you, Mr. Chairman. First I really want to commend this first panel. I know Ms. Clarke, Mr. Kimball and Mr. Nelson have worked hard and presented, I'm sure, the view of the governor of the state as you visit us in our offices in Washington and your help with regard to some of these amendments to the Land and Water Conservation Fund Act have been very, very helpful and I want to commend you for your work.

I did want to ask you, Kathleen, specifically, for the people that live in the Salt Lake Valley, my congressional district is actually one of the most—it's not only by far the most urban congressional districts in the state but even in all of the western United States, one of the most urban congressional districts and I think people in Salt Lake really do appreciate the open space. I think they appreciate these opportunities. And could you kind of describe specifically for Salt Lake folks that are kind of bottled up in tight quarters most of their living experiences, what some of the programs that would affect some of the parks, that are close by, that are close here right to Salt Lake, and if you could even comment on maybe some of the educational impacts of the bill.

Mrs. CLARKE. I have here a list. Let me just read you a few of the projects that of right now where we have requests for funding through this program for Salt Lake. The Boys and Girls Club Park, which is a playground and volleyball courts. Environmental Center, Interpretive and Education in Landscaping Center, the Jordan River Parkway, monies for land acquisition and trail development along that corridor, a sports field facility which is for kids to play ball, just good wholesome recreation opportunity. The Lodestone Park, which would be for picnicking, playgrounds and some rest rooms. Again, the Dimple Dell, the Seventh East Park, which would be picnicking, sports again, and play field. Hidden Valley trailhead, the Bingham Creek Pedestrian and Bicycle Trail.

So you see in there a whole array of different kinds of things, some that are an interpretive opportunity, an educational opportunity, some for just recreation, wholesome activities for kids, others that would be more serene and a place to go walk, to think, to retreat from the city. I'm going to let Courtland speak to the list of projects in a broader context all over the state.

Mr. NELSON. Mr. Chairman and Representative Cook, I think it's two components to be answered. One that Kathy gave, that there is a strong need in the Wasatch Front and in the urban areas to provide that close-to-home recreational opportunity. While we speak of Yellowstones and Yosemites and Grand Canyons, many of us have life experiences that are close to home. Part of it sticks with us forever, whether it's a young family with their kids out enjoying the open space in the playground or a hike along the Jordan River or in the case of Idaho, some of the wonderful things you've done with your trails in Boise and in the Ketchum area and exists along the Colorado, along the Platte.

Those are wonderful opportunities where the Federal money matches the local money for the improvements and those close-to-home opportunities because there are many people in these urban

cities who cannot get out to southern Utah or up to the Uintahs to have that recreation.

I think also, particularly in your district, Representative Cook, we in the state parks and the Federal recreation areas are the playgrounds for your citizens. Every Friday night the highways are full with people during the summer months, and more and more in the spring and the fall, who are heading to eastern Utah, southern Utah and expecting some basic recreation facilities, whether it's for wildlife opportunities, whether it is for boating or hiking, they play where we provide facilities and then come back to your district to live their lives. So I think there's two answers to that question.

If I may address your attention to this map here, and I will pick up and pass it. The recommended projects for John's wildlife programs, as well as for the suggested grants that we have received from potential applicants should CARA pass. That will give you a good feel for the geographic distribution for these projects.

Mrs. CLARKE. Mr. Chairman, if I could take one more minute, I'd like to ask Mr. Kimball to comment on some of the urban initiatives of the Division of Wildlife Resources.

Mr. KIMBALL. I appreciate that. I would have tried to butt in anyway. We're really interested—as you know, there are two components to Title III that address specifically wildlife recreation and wildlife education and Kathleen said in the end of her statement that we need to make sure that there is a connection between our urban citizens and the wildlife resources of this state. We expect these future citizens to really support wildlife programs and that connection's important for our agency.

Just about a month ago in Representative Hansen's district in Davis County we partnered with Davis County and a number of other people in a bird festival to talk about wetlands and wetland values and Davis County felt like I think it was an extremely successful partnership. Two weeks ago about, director Clarke participated in an urban fishing sort of ribbon cutting program at Farmington Pond where we've partnered with local sportsmen's groups to develop a fishing pier into a pond, a handicapped access fishing pier for urban fishing.

I also have a residence down here in the mouth of City Creek. I spend a great deal of my time when I'm not working, walking up City Creek just to get away from my work, quite honestly. And I think that's important. And those of you that were here last night and saw the news would perhaps note that I think it's the University of Utah that's voting on Monday whether or not to consider a conservation donation of foothill range. It's an important component for us in this urban area.

Mr. COOK. I want to thank you. I would also like to ask the chairman for unanimous consent for one additional minute just to ask another follow-up question of this panel.

Mr. HANSEN. No objection. So ordered.

Mr. COOK. One of the concern—I appreciate, because I think there are many programs, as I said in my opening statement, that would really be of benefit to us here. One of the concerns I share with my colleague from Idaho, Mrs. Chenoweth, is that do you think could be a problem in either of these bills of adding to the

Federal bureaucracy of our land management and is there any chances that taxes would have to be increased as a result if these bills are enacted?

Mrs. CLARKE. On the face of the bill I do not read that. John, did you want to say something?

Mr. KIMBALL. From the Title III component it simply partners into an existing Pittman-Robertson program that quite honestly, Federal Governments and states have used for almost 50 years. It's that very program that's rebuilt in many cases wildlife populations, of the game wildlife populations, and that component simply fits into that. It's one of the things that as a state director, I really appreciate the fact that it uses a system that I'm already comfortable with and as I understand, there is no tax addition, it's a distribution, a redistribution tax.

Mr. NELSON. Mr. Chairman, Representative Cook, I wanted to add that as I read H.R. 707 there is also a requirement that payment in lieu of taxes, the bill is increased and an interest from the fund goes to the counties that have Federal land.

Mr. COOK. Thank you very much.

Mr. HANSEN. The time of the gentleman has expired. Mrs. Clarke, if you had your druthers on this, which one of these bills would you prefer, H.R. 701, H.R. 798?

Mrs. CLARKE. We support H.R. 701. The only element of H.R. 798 we would love to see incorporated is a funding stream to support the Forest Legacy Program which has been an important source of funding for the State of Utah. We have a state option on that money so that we can get money directed to the state. The land that we deal with under the Forest Legacy Program in Utah does not go to the Federal Government. It stays in private hands for the conservation needs with the option of either the state or private interest holding that conservation easement. So we would love to see an amendment and would certainly support one but in general we support H.R. 701.

Mr. HANSEN. Would the state support running the state side funds through the state legislature to authorize these state projects?

Mrs. CLARKE. I'm going to invite these two gentlemen to respond since they would be the ones directly responsible for the management of those funds.

Mr. NELSON. Mr. Chairman, on the state parks side of the state fund we are required to bring all of our capital projects through two committees. They have to approve those before those monies could be spent. And of course there is a state requirement for that that I would have to work in achieving. So on the state side, which historically has amounted to 31 percent (inaudible). That occurs nationally. It gets more cumbersome if you require the locals to also go through a state approval process in order to (inaudible). I think the (inaudible) value to the west that I think runs headlong into some of the things we're dealing with local control and to have local agencies have to go through another bureaucratic exercise in order to match those state funds I think would be duplicitous.

We have a citizen board in our case in Utah and I believe that's the case in Arizona and Colorado, I'm not sure about Idaho, that has—they review the grant applications, they rank them and they

make those awards and that goes to my state parks board who again rate them and rank them and those go out to the citizens so you have two levels of citizen board evaluation based on staff evaluations but these also add some integrity to the system.

Mr. KIMBALL. The legislation, as I understand it, calls for a public process to help develop, in the wildlife programs anyway, the programs that we'll implement and I guess I can assure you that our state legislature, who authorizes my spending feel, I think, like they have pretty good oversight on what our agency does and what our agency doesn't do. They don't direct the funding as you've indicated but they do direct where I'm allowed to spend money and I would assume that that's the level of oversight that they'd be comfortable with.

Mr. HANSEN. I see from your booklet that there's apparently pretty good support for this issue in the State of Utah executive branch. The legislative branch, where are they coming from? Have you heard anything from those folks? What about county commissioners and mayors, people like that?

Mrs. CLARKE. I believe the mayors of the Utah League of Cities and Towns is fully behind this. We have many of our cities that have supported it. There have been some concerns raised about private property issues. We believe that they can all be accommodated and addressed within the context of the bill and that this would not be abusive in any way regarding those private property rights. But we think there's overwhelming support as indicated by that lengthy list of people who have rallied around and see the great benefits of having this funding available to the communities and to the state to use in all of these objectives we've discussed.

Mr. HANSEN. The president of the senate or speaker of the house, have they taken a stand on this?

Mr. NELSON. I'm not aware of them taking a stand but I can say that last year in our legislative session particularly dealing with wildlife habitat and wildlife habitat issues, we spent a lot of time talking about how we would fund the protection of wildlife not only from the standpoint of preserving wildlife values on private lands but mechanisms to do that and I think our legislature was extremely comfortable with the concept of conservation easements and working with conservation easements to secure wildlife conservation on private lands.

Mr. HANSEN. I've noticed that you've already addressed Title II and Title III, which I wanted to ask about and also private property interests that you've talked about, and I won't ask you but I'd like you to respond, if you would, when you did have the land conservation fund or when it was to be fully funded how was the money spent in Utah. I guess that's in your booklet also.

Mrs. CLARKE. It is.

Mr. HANSEN. And I've looked at your list of what you anticipate you will do from later on so I see my time is up. We've now been joined by the congressman from the Third Congressional District, a member of the Committee and, Mr. Cannon, if you have any opening statement or anything you'd like to ask these witnesses, we'll recognize you for five minutes.

Mr. Cannon. Thank you, Mr. Chairman. I'd ask unanimous consent to have my opening statement just included in the record.

Mr. HANSEN. Without objection. So ordered.
[The prepared statement of Mr. Cannon follows:]

STATEMENT OF HON. CHRIS CANNON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Thank you Mr. Chairman. First, I would like to welcome our colleagues to our beautiful state. I am honored to host our Committee. Also, I would like to welcome our panelists and extend my appreciation to them for taking time on a Saturday morning to discuss this important legislation. I know our Chairman, Mr. Young, has worked very hard and diligently on this legislation and he is very proud of it. I also understand many groups have some concerns with various issues contained in the legislation. I hope that our discussion today will provide some insight into those concerns and provide a helpful dialogue to address any outstanding matters. I am anxious to let our panelists begin their remarks, so I will try to keep my comments brief.

Many of our panelists this morning will highlight the benefits of H.R. 701. While I recognize H.R. 701, provides some great benefits for the states, including Utah, I would like to note that I understand this legislation is not without fault. There are many individuals who are concerned that this bill encourages the acquisition, by the Federal Government or states, of more land. I suspect that some of our witnesses this morning will touch on those concerns.

H.R. 701 would establish a new formula and procedure to distribute funds from the Land and Water Conservation Fund. Historically, the Secretary of the Interior has been appropriated roughly $270 million annually for the acquisition of environmentally sensitive lands throughout the United States. In the past, these acquisitions have occurred without any accountability or consideration of property rights or existing Federal areas. I would like to commend the Chairman for including language in H.R. 701 which adds significant private property protection and Congressional oversight to the process.

Mr. Chairman, I know we have a full morning ahead of us and I am eager to hear from the knowledgeable individuals before us today. I suspect we will have a good discussion and I look forward to examining all aspects of the legislation.

Thank you Mr. Chairman.

Mr. CANNON. I want to apologize for being here a little late. We committed to a parade in Springville before this hearing was set and I appreciate the chairman's willingness to defer this hearing for an hour and still it was impossible for me to get here on time. I apologize.

I want to thank the panelists in particular for being here. We've actually spent some time privately talking about these issues. And let me point out that the booklet which I think you're referring to is the booklet that members of the panel have given me in the past and I think that's a remarkably thoughtful and thorough book and so at this point and given the number of panelists I think we're going to have today, I think I'll yield back the balance of my time.

Mr. HANSEN. Thank you. Do any members of the Committee have additional questions for the panel? Mrs. Chenoweth recognized for five minutes.

Mrs. CHENOWETH. Mr. Chairman, this won't take five minutes but I wanted to let Mrs. Clarke know that I am very, very supportive of restoring the Land and Water Conservation Funding system as it was passed in 1965, which is a far better formula for the states than what is laid out in H.R. 701. I have been working with Yvonne Farrell from my state. I enjoy the green belt with my children and grandchildren. While I don't believe that this is a basic function for the Federal Government, it's part of our life today.

And, for the record, I have said on and off the record and I'll say it again, I think we made a serious mistake in 1995 when we took funding away from the states while not at the same time taking

funding away from the Federal Government. There is nothing that can really help families more than to be able to pray together and play together. Yvonne Farrell made that point to me when I spent a day with her mountain biking and biking on the green belt. When we have parks and recreational areas close to homes where parents really know where their children are playing, it does make a difference.

My concern, as you know, is of the expansion of Federal ownership. Secondly, my concern in this bill is that this bill would require a partnership with the Secretary of Interior having all final say on what kind of program that you would implement and it would require 50 percent matching funds. It allows for local units of government to go around the governor and form a partnership with the Federal Government and of course it increases overall Federal spending. But, like I say, we made a mistake in 1995. We must correct that mistake and bring that funding back to the states. So within that frame of reference I'm very supportive of doing that.

Mrs. CLARKE. I appreciate hearing that and it sounds to me like we have a lot in common in terms of what our interests are. Our primary interest here today as I stated is to see that mechanism back in place. We acknowledge there are some concerns on the Federal funding side and trust that you will deal with those appropriately. I want to tell you I appreciate the values that I think we all embrace regarding the need for recreation, for wholesome recreation close to home, as well as for protection of our wildlife interests and values that are out there.

We like the context of the bill. It allows for local governments, however, to design some of their own recreational needs. It fits into some local solutions to some of our compelling needs, creates partnerships that we want to support. And as a single mother with three sons, let me just add a personal note and say that, you know, I don't take my boys fishing or take them camping but I really enjoy those things that are close to home, things that are easy for me to access. I'm a busy woman and I'm very grateful that there have been things close to home for us to do together as a family. And I echo what has been said, we need to pray and play together. And we are just anxious to have funding available to help us accommodate the compelling demands of our citizens to continue to enjoy those types of opportunities.

With growth moving ahead in this state as it is, and we're looking at doubling our population before 2020, we're just overwhelmed with needs to repair and restore facilities that are falling apart now as well as to look to the future as to how we're going to accommodate the increasing demands for those types of opportunities.

We would love to see this legislation or a formula for the state to get back into the funding picture enacted by this legislation or by this legislature and encourage you to consider it. Thank you.

Mr. HANSEN. Thank you. We appreciate Kathleen Clarke, Mr. Nelson, Mr. Kimball for their testimony and we will excuse this panel. And I don't see Mayor Bell coming in so we'll call on the second panel. Mr. Bert Smith of Ogden, Utah, Mr. Robert Valentine of Brigham City, Utah, Mr. Don Peay, executive director, Sportsmen for Fish and Wildlife of North Salt Lake, Utah, Mr. Travis

Hall, public relations manager of Browning Arms in Morgan, Utah. If they would come up, we'd appreciate it. We appreciate the panel being here. Mr. Smith, if you would like to go first, sir, we'd appreciate hearing from you. If you'd pull that mike over, I'd appreciate it. Thank you.

STATEMENT OF BERT SMITH, OGDEN, UTAH

Mr. SMITH. Thank you, Mr. Chairman. Could you find something to tape that on that board? It's an important map. Distinguished congressmen, I appreciate being able to say my piece here about this bill. I'm Bert Smith, president of the National Federal Land Conference, an organization designed to protect private property. Our office is located in Bountiful, Utah. My home address is a ranch in Nevada and a townhouse in Ogden, Utah and a business in Ogden, Utah, as my papers will describe.

I'm a member of the Nevada Cattle Association and a member of the board of directors. I'm a member of the Utah Cattle Association and the New Mexico Cattle Association. I have property in all those states.

I'm well acquainted with the public land issue, probably as well as any witness you will ever have because I'm known in my own circles, not very widely because I'm only a country bumpkin, but I'm known as Mr. Sagebrush Rebellion and I continue to fly that flag. It's an important flag to me because we stand for no net loss of the private property and Mr. Chairman, as you well know that was an important issue at one time and even Senator Hatch, wanted to pass the bill in that respect.

I have a business that is widely known as an agri-business and we do business with all of the livestock people in the west. It's not just a country store, it's a world country store because we have visitors from all over the world come there. It's quite a museum piece and we have anything you want, if we can find it and we have a big sign that says that. And another big sign that says Holy cow, what a great store. So we're not sober all the time. We make fun of ourselves and the public love it. It's a menagerie but it's not small.

And we enjoy our ranch people and they come there to buy wholesale and retail. We do wholesale in seven states. We sell as many as 2,000 saddles a year. We're the second largest horseshoe dealer in the United States. We're the largest Wrangler jean dealer in Utah.

To go on, I have some substantial land holdings in Nevada and Arizona and New Mexico. I am an in holder. The government surrounds me. And the reason I want this map up there is you're well acquainted that the black is federally owned. I mean Nevada is all Federal land outside of Reno and Las Vegas, a few of the bigger cities, are in holders.

You'll notice there that the gray snake that runs across there is 40 miles wide, that represents the railroad. I mean every other section is in holding by the railroad. They're the money out there trying to push this thing through. They would love to sell some of their mountaintops that they've got as the largest land grant in the history of the world. They'd like to sell that and some of the oil

companies feel the same way. In Reno there is a big influence from the oil companies on this bill.

We're deeply disappointed in Representative Don Young and other good Republicans who would sponsor such a bill. Buy up more land to be held in the tight iron grip of the Federal Government.

Bill H.R. 701 has so many golden threads woven into a blanket of untruths that it's misleading. This sounds like a motherhood bill and it opens the door that would let Clinton/Gore walk in or drive a truck through that door if we let that crack open. They have some real money spent on bills out there that they would like to buy up everything. This is a very dangerous door opener. There is one thing that we all agree that——

Mrs. CHENOWETH. Mr. Chairman——

Mr. HANSEN. The young lady from Idaho.

Mrs. CHENOWETH. I would ask unanimous consent to allow Mr. Smith additional time of three minutes.

Mr. HANSEN. Hearing none—what do you need, Mr. Smith, three more minutes? You have three more minutes.

Mr. SMITH. Well, I'll sum it down.

Mr. HANSEN. So ordered. Debbie, could you give him three more minutes?

Mr. SMITH. I'm known as a talker so I apologize for taking——

Mr. HANSEN. I think you're doing fine.

Mr. SMITH. The bill violates Article 1, Section 8 and the government should be held to the limited ownership of land. I would like to submit as my witness a book that cost a quarter of a million dollars in legal research, "How the West was Lost." This will undo the sweetheart deals the Federal Government has been delving in for a hundred years.

Mr. HANSEN. Is there objection to the book being submitted into the record? Hearing none, so ordered.

Mr. SMITH. And also "The Golden Fleece" is the one that's been out for a long time. It has a lot of wonderful information on this subject of why the Federal Government shouldn't be in the land business. And the Federal Government owns 42 percent of the United States, 92 percent of Nevada. How much is enough? The question has been asked here today, how much more do they want? Do they want it all? That would be total socialism if they had it all. Are we going to be a free country or are we going to give it up? That's the question I'd like to ask. Thank you.

Mr. HANSEN. Thank you, Mr. Smith. And all of the information you've given us, we'll include that.

[The prepared statement of Mr. Smith follows:]

STATEMENT OF BERT N. SMITH, PRESIDENT, NATIONAL FEDERAL LANDS CONFERENCE

Dear Sir/Maam,

I am Bert N. Smith, President of the National Federal Lands Conference, an organization used to protect private property rights, which is located in Bountiful, Utah.

I am authorized to give testimony for the Coalition of Counties in Arizona and New Mexico.

I am a Utah Agri-business owner in both the retail and wholesale sectors.

I am a Nevada cattle rancher and a member of the Nevada Cattlemen's Board of Directors.

I am an inholder, (Owner of land surrounded by federally owned land).

H.R. 701 is a very dangerous bill that would give the Federal Government billions of taxpayers dollars to buy up private land and remove it from the counties tax base.

We are deeply disappointed that Rep. Don Young and other "good" Republicans would sponsor this bill. We are also disappointed that the bill is getting support from the National Governors Association and the National Association of Counties.

This bill, H.R. 701, has so many golden threads woven into a blanket of untruth that it has misled both the state and county organizations.

We do not need more government ownership of land. Government ownership of land is a violation of the very foundation of this free government, the right to own private property. Here are a few of the reasons that additional Federal ownership is unlawful and unneeded.

1. This bill violates Article I Section 8. Five western states have passed laws and we need to reinforce them.
2. This bill violates Article IV Section 4. This guarantees that the state and the people are sovereign. The Federal Government should never have the power of eminent domain.
3. Exhibit #1. The Golden Fleece. Nevada is 90 percent owned by the Federal Government and 6 percent owned by the railroad. The railroads are the biggest inholders and have the most to gain by selling all of their unusable land. Also, the oil companies.
4. Exhibit #2. "How the West was Lost," a complete document of how the Federal Government has completely manipulated laws and usurped the right of property ownership. Page 240 and 241 explains how the Federal Government violated the trust and kept the deed to the western land. Page 239 exposes a sweetheart law suit (Kleppe) that must be overturned. This book is a very complete and extensive legal document.
5. The Federal Government has caused almost all of the inholder disasters such as declaring private property critical petro clif areas. The people must pay tax and can't use the land.

I know of a man in Arizona whose rights rave been completely trampled upon. He has a subdivision on the Arizona strip that is approximately the size of St. George City. Appraisers have given it a worth of $20 million. The Federal Government has had it tied up for 15 years now, due to the idea that there are signs of desert tortoise. He pays thousands of dollars each year in taxes for land that he can't use or sell. This is just one example of the Federal Government abusing the property rights of citizens.

The number of property rights disasters that take place now is staggering. I fear that the number of abuses to property rights will become overwhelming if H.R. 701 is passed. It is an overwhelming problem now. H.R. 701 can not be supported by you or anyone else that loves or respects this country. The rights that we have here have been fought for for generations and these rights need to be preserved. H.R. 701 would destroy these rights and must not be supported.

Mr. HANSEN. Mr. Valentine, you're recognized for five minutes.

STATEMENT OF ROBERT VALENTINE, BRIGHAM CITY, UTAH

Mr. VALENTINE. Thank you, Congressman Hansen and members of this Committee. I appreciate the invitation and opportunity to testify in support of this legislation this morning, for both H.R. 701 and 798. I regard them as a major step in the direction of providing additional funding for the much needed use of Utah's recreational and wildlife advocates.

As you can see from my resume, I've been involved, intimately involved with wildlife management throughout my service as a wildlife board member for 10 years and I also served as Director of the Division of Wildlife Resources for a little over three years. Therefore, I feel qualified to talk about the wildlife management funding and their needs.

Through an appointment to and the continued service as the U.S. House of Representatives appointee to the Utah Reclamation Mitigation and Conservation Commission, I've gained much valuable experience and understanding of the needs of the recreationalists

in the state of Utah. With that very brief introduction, I'd like to continue my testimony.

Utah is not the unique state in the west. Our needs and objectives are common with other states throughout this portion of the country. In continued talks with various state directors and members of the Western Association of Fish and Wildlife Agencies, I was able to understand and conclude that funding the requirements and needs in Utah are not different from those in the surrounding states.

While serving as a city councilman and a county commissioner, I operated with a long-standing philosophy of use or pay. That's not been the situation in the state of Utah nor for that matter do I believe it's been the situation in many of the other western states.

The funding for wildlife management in the state of Utah is broken down quite generally as 65 percent coming from the sale of licenses and permits, 25 percent of their annual budget comes from Federal funds generated by Pittman-Robertson, Wallop-Breaux and Dingell-Johnson. The other 10 percent came from general fund appropriation and/or other sources within the state of Utah. As you can see, 85 to 95—85 to 90 percent of the funding for wildlife management within the state of Utah came directly from the sportsmen. This is a major imbalance.

The nonconsumptive community does not have an acceptable opportunity to contribute their fair share. Those individuals, particularly those in the last decade, have demonstrated a very passionate and strong feeling for wildlife and wildlife management and have taken a very active role in stating their management objectives in regard to wildlife management and what they would like to see done. I do not favor denying these people an opportunity to participate in that process. I think these two pieces of legislation go a long way toward addressing the need for additional funding here in the state of Utah.

As you probably heard many times in the past, as it relates to wildlife management, the Endangered Species Act has created many unfunded mandates the sportsmen in this state have been forced to fund because no other funding was available. Although the imbalance has improved somewhat in recent years, it's still an inadequate amount to conduct all of the required programs.

It does not require much stretch of the imagination to look at the Land and Water Conservation Funds as those generated through the general population and their purchase of patroling popular products. Therefore, this legislation, in my humble opinion, is a more balanced opportunity for funding of those unique wildlife management requirements that many of the nonconsumptive community feel very near and dear to them.

I think this legislation goes a long way in addressing this imbalance and I would encourage both houses of Congress to pass this very important critical legislation that is much needed by this state and other states throughout the country. As we address the continued and ever increasing needs for wildlife management and recreational opportunities, this can be the most beneficial legislation to resolve those concerns.

In closing, I thank you very much again for the opportunity and courtesy to continue to work toward passage of this legislation. Thank you.

[The prepared statement of Mr. Valentine follows:]

STATEMENT OF ROBERT G. VALENTINE, BRIGHAM CITY, UTAH

Thank you, Congressman Hansen. I appreciate the invitation and opportunity to testify in behalf of this legislation, both House Bill H.R. 701 and H.R. 798, as a major step in the direction of providing additional funding for the much needed use of Utah recreationalists and wildlife advocates. As you can see from my resume, I have been intimately involved with wildlife management through my service as a wildlife board member for ten years and also as I served as director of the Division of Wildlife Resources for a little over three years. Therefore, I feel qualified to talk about the wildlife management funding and their needs as well as through an appointment to and continued service as the U.S. House of Representatives appointee to the Utah Reclamation Mtigation and Conservation Commission. I have gained valuable experience and understanding of the needs of the recreationalists in the state of Utah. With that very brief introduction, I would like to continue my testimony.

Utah is not a unique state in the west. Our needs and objectives are common with the other states throughout this portion of the country. In continued talks with the various directors of the members of the Western Association of Fish and Wildlife Agencies, I was able to understand and conclude that the funding requirements and needs of Utah are not different. While serving as a city councilman and county commissioner, I operated with the long-standing philosophy of "user pays." That has not been the situation in the state of Utah, nor for that matter do I believe it has been the situation in many of the other western states. The funding for wildlife management in the state of Utah is broken down quite generally as 65 percent came from the sale of licenses and permits, 25 percent of their annual budget came from Federal funds generated by Pittman-Robertson, Wallop-Breaux and Dingel-Johnson; the other 10 percent came from general fund appropriations and/or other sources within the state of Utah. As you can see, 85 to 90 percent of the funding for wildlife management within the state of Utah came directly from sportsmen. This is a major imbalance. The nonconsumptive community does not have an acceptable opportunity to contribute their fair share. These individuals, particularly in the last decade, have demonstrated a very passionate and strong feeling for wildlife and wildlife management and have taken a very active role in stating their management objectives in regard to wildlife management and what they would like to see done. I do not favor denying these people an opportunity to participate in that process. I think these two pieces of legislation go a long way toward addressing the need for additional funding here in the state of Utah.

As you have probably heard many times in the past as it relates to wildlife management, the Endangered Species Act has created many unfunded mandates that the sportsman in this state have been forced to fund because no other funding was available. Although the imbalance has improved somewhat in recent years, it is still an inadequate amount to conduct all of the required programs. It does not require much stretch of the imagination to look at the Land and Water Conservation Funds as those generated through the general population and their purchase of petroleum products. Therefore, this legislation, in my humble opinion, is a more balanced opportunity for funding of those unique wildlife management requirements that many of the nonconsumptive community feel very near and dear to. I think this legislation goes a long way in addressing this imbalance and I would encourage both houses of Congress to pass this very important and critical legislation that is much needed by this state and other states throughout the country.

As we address the continued and ever-increasing needs for wildlife management and recreational opportunities, this can be the most beneficial legislation to resolve those concerns. In closing, I thank you very much again for the opportunity, and encourage you to continue to work toward passage of this legislation.

Thank you.

Mr. HANSEN. Thank you.

Mr. VALENTINE. Mr. Peay.

STATEMENT OF DON PEAY, EXECUTIVE DIRECTOR, SPORTSMEN FOR FISH AND WILDLIFE OF NORTH SALT LAKE, UTAH

Mr. PEAY. You have my written comments. I may vary from that just to reiterate points. I hate reading a prepared statement.

Mr. HANSEN. Incidentally, all the written comments that everyone will give will be included in the record and we appreciate you—we'll take your statement here but they'll all be included in.

Mr. PEAY. Sportsmen for Fish and Wildlife is a very large sportsman group in the state. Several of you have attended our fund raisers and I would say we're probably 80 percent Republican except for the district of Mr. Cannon's in Price and that's a very democratic district but you know the support we have——

Mr. CANNON. And we love your sportsmen there, too, by the way.

Mr. PEAY. You saw 600 people come.

Mr. CANNON. That's right.

Mr. PEAY. We are mostly businessmen and we support limited government. We don't want any more government control than possible. But I would just have to say that public land is a great blessing because in Utah 95 percent of the private land says no trespassing, no hunting, no fishing, keep out. And so while we may be concerned about what the Federal Government does on Federal land, the verdict's already in on private land. We're locked out, period. That's where we recreate. That's where we hunt. That's where we fish is on public land. It's a great blessing to be able to go into the Grovant Wilderness of Wyoming or Hells Canyon in Idaho or any of these other western states. Public land is a great blessing.

Let me tell you just a few specific examples about what I've done the last 10 years. I was a businessman. I sold that business and got involved in the wildlife conservation business. The ranchers and the sportsmen in Utah were basically at war. There's too much wildlife. There's too many cows. And rather than let the Federal Government solve that solution, we decided to try to work together with the Farm Bureau, the cattlemen, the wool growers and we've done several projects involving millions of dollars where we either buy land or buy grazing permits or water rights and then we trade, swap, do various things in a win-win business, free market system as much as possible to solve problems.

And so we have a lot of ranchers who are our friends but frankly, there are a lot of ranchers who are going out of business and they call us and say, This is a better wildlife ranch than it is a cattle ranch, would you guys be interested in buying it? Mr. Hansen knows of the Wilcox ranch. They approach us, we don't go approach them. And so the challenge is as private groups it's hard to raise enough money to buy land and then turn it over to all the public that don't pay for that.

Just a quick example. When lands were settled in Utah, perhaps 4,000 private acres were settled to design access and control of 100,000 acres of public land. We had one place in Utah where half a million acres of public land was controlled by five families owning 20,000 acres. We were very excited in the Book Cliffs where there was a chance to buy these private lands to compensate these ranchers at fair market value and open up a half a million acres to public access to wildlife. So these are the benefits that can come through CARA funds if they're given as much local control as pos-

sible. We don't want the Federal Government in here trying to dictate but there is a need for funds to solve problems and we've done that successfully.

I'd just like to answer Ms. Chenoweth's question. I think 1 percent more in Utah. I think if we could acquire perhaps 200,000 acres of these highly leveraged ranches from willing sellers, that would solve a lot of problems with conflicts between wildlife and livestock and it would also open up access to millions of acres of public land that we've been locked out of. So it's not a great amount of land, it's just key strategic pieces of land.

And I also want to point out one other thing as we've dealt with many of these ranchers. When they say, Well, why can't you get money from the state or the Federal Government, we say, Well, some congressmen don't want us to do that. And they say, Well, isn't that violating our private property rights because we should be able to sell to any willing buyer. So that's a point. And these are direct comments from ranchers we've dealt with.

One other point of this legislation that we want to focus in on is there's been some discussion that this is an opportunity for the nonconsumptive people to contribute. It's really not a direct contribution. This is a royalty from offshore drilling. And we think strongly, as we've said, sportsmen have paid the bill for a long time. We would like to see funds from CARA go in to augment hunting and fishing programs which are lacking.

We always step up to the plate for license increases. The Utah Legislature passed a $6 habitat authorization license a couple years ago that generates $3 million a year to protect habitat. So sportsmen are always paying the bill. Now there's some free money and the other group wants all of it. We feel strongly that this money should go to augment hunting and fishing programs. And I think that—my time's running out.

You can read some comments of some ideas that we have specifically. But, as I say, in the last 10 years we've done this. We've solved problems. We've tried to do it through win-win business principles. And a lot of my people that support me are in the sporting goods industry and it's a $500 million industry in this state and this is a huge business that we need to protect. So 80 percent of us Republicans in our group think that CARA is a good concept. Thank you.

[The prepared statement of Mr. Peay follows:]

STATEMENT OF DONALD K. PEAY, EXECUTIVE DIRECTOR, SPORTSMEN FOR FISH AND WILDLIFE

Dear Utah Delegation Members,

The organized sportsmen groups of Utah, strongly support the Conservation and Reinvestment Act (CARA), and offer some additional suggestions to create the best legislation possible for wildlife conservation.

For the past 100 years, sportsmen have carried the burden for ALL wildlife conservation. Literally billions of dollars have been invested. When hunting and fishing license fees are not enough, sportsmen support excise taxes such as Pittman-Robertson and Wallop-Breaux to generate billions more. Four years ago, the sportsmen of Utah requested the Utah legislature to create an additional habitat license that generates approximately $3 million additional dollars annually for habitat preservation in Utah. It is still not enough money, so sportsmen annually donate tens of millions more dollars to private organizations such as Ducks Unlimited, Rocky Mountain Elk Foundation, Foundation for North American Wild Sheep, National Wild Turkey Federation and others.

Last year, Congress considered passing an excise tax similar to Pittman-Robertson for non-hunting and non-fishing items (Teaming with Wildlife). The non-consumptive folks resisted this effort and the idea was defeated. These people absolutely refuse to directly pay for wildlife conservation, yet demand a huge voice in wildlife management.

CARA is an alternative funding source, and the funds are badly needed to protect wildlife habitat, as human populations continue to grow. Many groups feel that this "free money" should be used only or primarily for species that are not hunted or fished. We completely disagree: For decades sportsmen have funded millions of non-hunted species projects. **Additional dollars are needed for species that are hunted and fished. When you protect habitat for species that are hunted and fished, you protect habitat for all species.**

Perhaps one additional line should be added to legislation under intended uses, Title III, Section 302 to indicate:

"To augment existing hunting and fishing programs"

Core components of the Legislation

Because of the additional need to protect habitat for all species including those that are hunted and fished, we support CARA, H.R. 701. However, because of the historical funding for wildlife management, and the anti-hunting and anti-fishing agenda of some in the non-consumptive groups, we hope that the following core recommendations are in the legislation:

1. 100 percent of the control of how the money is spent is given to states
2. States retain title for all water, land and easements acquired with CARA money.
3. A local public input process into how the CARA dollars should be spent.
4. Clearly indicate CARA dollars are for game and non-game species.
5. No Money—0 percent—of CARA dollars may be used to purchase lands and waters that would restrict hunting or fishing beyond normal limits established by the state wildlife commission. No money may be used to create non-hunting and non-fishing preserves.
6. 501 C 3 Wildlife Conservation organizations may obtain CARA dollars as part of on the ground or in the water matching funds for private wildlife conservation organization projects.

The best suggested use of CARA dollars in Utah:

Primary Uses

1. At least 50 percent of the CARA dollars in Utah go into securing winter range for large game species. The CUP project has hundreds of millions of dollars for wetlands and fisheries. The CRP program provides funding for upland game. Protecting Utah's big game winter range is Utah's greatest need, and is being most significantly impacted by human population growth. Securing big game winter range helps multitudes of other species.
2. Improve, enhance and rehabilitate existing Federal lands. There are millions of acres of Forest Service and BLM lands that could be greatly improved by the use of chaining, burning, re-seeding, and other habitat manipulation projects.
3. Acquisition of critical School and Institutional Trust Lands, that are being sold off in the thousands of acres on an annual basis in Utah.
4. Acquisition of water rights to protect in stream flows, wetlands, and riparian systems.
5. Acquisition of grazing permits from retiring ranchers. This will allow for resolving conflicts between wildlife and livestock on public lands.

Secondary Uses

1. Perform studies and monitoring of species.
2. Hire more employees for specific species protection.
3. Law enforcement and education programs.

For the past 10 years, we have worked to protect wildlife populations, and to resolve conflicts between livestock and wildlife. There can be win/win solutions, as retiring ranchers are fairly compensated for their assets in a willing seller and willing buyer arrangement.

We appreciate your support of this critical piece of legislation to protect the industry of hunting and fishing, and the intrinsic value and quality of life associated with Utah's great wildlife heritage. However, if this legislation becomes nothing more than another Federal program, administered from Washington DC with bureaucracy and red tape, use the money to reduce the deficit.

Sincerely,
Donald K. Peay

Executive Director

Mr. HANSEN. Thank you, Mr. Peay. Mr. Hall. Mr. Hall is recognized for five minutes.

STATEMENT OF TRAVIS HALL, PUBLIC RELATIONS MANAGER OF BROWNING ARMS IN MORGAN, UTAH

Mr. HALL. Thank you, Mr. Chairman and members of the Committee on Resources. Let me first start out by saying that I apologize for the absence of our president Don Gobel. He was the person that was invited to testify today and had to go to Europe where the ownership of our company is but he felt that it was a very important topic that he has very much interest in so I'm here representing Browning.

My name is Travis Hall. I'm the public relations manager and I would like to thank you for this opportunity and I appear before you today with the strong support of Browning for H.R. 701, the Conservation and Reinvestment Act of 1999. Browning sincerely appreciates your efforts in bringing this conservation proposal to the table which will ensure the future of wildlife, the conservation of resources, and provide much in-demand recreational activities for our citizens resulting in economic growth to our communities.

Browning is also encouraged that many of the same needs were recognized in H.R. 798. As you know, the need for these programs in the states are significant. They enjoy wide public support and our children and their children will thank us for the commitment we make to ensure the conservation and vitalty of America's natural resources.

As many of you know, Browning is headquartered in Morgan, Utah. We are one of the largest manufacturers of sporting firearms as well as outdoor clothing, gun cases and accessories, archery equipment, footwear, knives, flashlights and gun safes. Browning employs over 120 people in Utah and sales top $200 million annually. Millions of people across the nation enjoy outdoor activities each year and the cost to manage the vast resources is enormous and has been funded largely by sportsmen and sportswomen.

Browning, through the Wildlife Restoration Act, or the Pittman-Robertson Act and the Federal Aid in Sports Fish Restoration Act, Dingell-Johnson and Wallop-Breaux has helped fund the management and restoration of fish and wildlife for over half century. These funds are the principal source of funds for state fish and wildlife programs. And I don't need to go into all of the details of what these funds aid in. For example, selection, acquisition, restoration, rehabilitation and maintenance of areas of land and water.

In addition, Browning has long supported local, national and international conservation organizations. These organizations, along with hunters and anglers for years have contributed to game species conservation. And I might point out that these game species conservation result in correlary benefits to nongame species from the conservation of habitat. These efforts that Browning is directly involved with through the Pittman-Robertson Act and the donations and the license fees that are charged to the sportsmen and anglers will greatly be enhanced by the additional funding to be provided by the Conservation and Reinvestment Act.

Let me give some reasons on why Browning supports H.R. 701. H.R. 701 commits the United States to a policy of dedicating revenues to securing the status of living renewable resources, conserving land and water resources, and providing outdoor activities for our cities and local communities through a permanent indefinite appropriation to fund state based programs.

H.R. 701 builds on the support the states have relied on for decades from our nations hunters and anglers to finance state fish and wildlife programs by broadening this funding support to a permanent indefinite appropriation from a general revenue source.

H.R. 701 focuses decisions on spending priorities at the local level where states and communities are in the best position to know what those needs and priorities are. We must facilitate local identification of issues and problem solving, not top down prescriptive solutions.

H.R. 701 allows states to work with private land owners in a nonregulatory manner to achieve their land management objectives consistent with good conservation for fish and wildlife.

And, finally, H.R. 701 builds on our citizens' strong sense of stewardship about their land by making them a part of the problem solving and implementation of solutions.

I might state that Browning is encouraged that H.R. 798 has provisions for funding to the states but that we strongly support H.R. 701. Let me conclude by saying sportsmen and sportswomen need help in funding the efforts to ensure the future of fish and wildlife in protecting their habitats. This is certainly one of the most important pieces of conservation legislation and Browning pledges its support and effort in working with you to enact this legislation this year to help preserve our natural resources.

[The prepared statement of Mr. Hall follows:]

STATEMENT OF TRAVIS HALL, PUBLIC RELATIONS MANAGER, BROWNING

Mr. Chairman and Members of the Committee on Resources. My name is Travis Hall, Public Relations Manager at Browning. I would like to thank you for the opportunity to appear before you today with the strong support of Browning for H.R. 701, the Conservation and Reinvestment Act of 1999.

Browning sincerely appreciates your efforts in bringing this conservation proposal to the table, which will ensure the future of wildlife, the conservation of resources and provide much in-demand recreational activities for our citizens, resulting in economic growth to our communities. Browning is also encouraged that many of the same needs were recognized in H.R. 798 the Permanent Protection for Americas Resources 2000 Act. As you know the need for these programs in the states are significant, they enjoy wide public support, and our children and their children will thank us for the commitment we make to ensure the conservation and vitality of America's natural resources.

Browning, which is headquartered in Morgan, Utah, is one of the largest manufacturers of sporting firearms as well as fine outdoor clothing, gun cases and accessories, archery equipment, footwear, knives, flashlights and safes. Browning employs over 120 people in Utah and sales top $200 million annually. Millions of people across the nation enjoy outdoor activities each year. The cost to manage the vast resources is enormous and has been funded largely by sportsmen and sportswomen. Browning, through the Wildlife Restoration Act (Pittman-Robertson Act) and the Federal Aid in Sports Fish Restoration Act (Dingell-Johnson and the Wallop-Breaux Amendment), has helped fund the management and restoration of fish and wildlife for over a half century. These funds are the principal source of funds for State fish and wildlife programs. These funds aid in the selection, acquisition, restoration, rehabilitation, improvement and maintenance of areas of land and water that are feeding, resting and breeding places for fish and wildlife, and also aids in the research into problems of wildlife management. In addition, Browning has long supported local, national and international conservation organizations.

These organizations along with hunters and anglers for years have contributed to game species conservation, resulting in corollary benefits to non-game species from the conservation of habitat, etc. These efforts will be greatly enhanced by the additional funding to be provided by the Conservation and Reinvestment Act.

Mr. Chairman here are the reasons Browning supports H.R.701:

- H.R. 701 commits the United States to a policy of dedicating revenues to securing the status of living renewable resources, conserving land and water resources and providing outdoor activities for our cities and local communities, through a permanent, indefinite appropriation to fund state-based programs.
- H.R. 701 builds on the support the states have relied on for decades from our Nation's hunters and anglers to finance state fish and wildlife programs by broadening this funding support to a permanent, indefinite appropriation from a general revenue source.
- H.R. 701 focuses decisions on spending priorities at the local (not Washington) level, where states and communities are in the best position to know what those needs and priorities are. We must facilitate local identification of issues and problem solving, not top-down prescriptive solutions.
- H.R. 701 allows States to work with private landowners in a non-regulatory manner to achieve their land management objectives consistent with good conservation for fish and wildlife.
- H.R. 701 builds on our citizens' strong sense of stewardship about their land by making them a part of the problem solving and implementation of solutions.

Let me now briefly comment on H.R. 798. Browning is encouraged that H.R. 798 has provisions for funding to the states for State-based enhanced wildlife conservation. We are also encouraged that H.R. 798 seeks to use revenues under a permanent, indefinite appropriation. Both bills have similar objectives to provide funding for fish and wildlife.

Mr. Chairman let me conclude my remarks by reiterating Brownings' support of H.R. 701. Sportsmen and sportswomen need help in funding the efforts to ensure the future of fish and wildlife and protect their habitats. This is certainly one of the most important pieces of conservation legislation and Browning pledges its' support and effort in working with you to enact this legislation this year to help preserve our natural resources.

Thank you.

Mr. HANSEN. Thank you, Mr. Hall. From the three of you who testified in favor of this legislation, I would assume that the three of you come down on the side of H.R. 701; is that correct?

Mr. VALENTINE. Yes, sir.

Mr. HANSEN. We'll turn to the questions from the Committee. Mrs. Chenoweth, you're recognized for five minutes.

Mrs. CHENOWETH. Thank you, Mr. Chairman. Mr. Smith, I want to thank you for your testimony and I would be interested in reading that first book that you put into the record, so I'll be in touch with you about that.

Mr. Peay, I wanted to thank you for being so decisive and focused in your testimony but I do want to say that I work on the Subcommittee for Forest and Forest Health in the Resources Committee and one of our biggest heartaches is that roads are now being closed for multiple use purposes and that includes hunting. Mr. Simpson just joined me and the Committee in a hearing in Idaho in the Targhee National Forest where the forest service has gone in and built not just berms, they called it berms, but 10- to 15-foot deep tank traps in order to stop access. The hunters and fishermen in my state, as well as people who have traditionally accessed the back country for berry picking and picnicking and camping and so forth are frustrated beyond belief because access to the back country is being closed.

So, with that comment, I'd like to solicit the support of your organization in working with our Subcommittee in trying to keep access open to the back country on our federally controlled lands whether it's under the control of BLM or under the control of the forest

service. I think we have a common ground here and that is to keep our back country open to hunters. That's our way of life. And with the gun control measures that are coming down the pike, with limited access for hunters, we can quickly see our way of life changing.

Mr. Valentine, I have studied your testimony and I've studied the suggestions that you have made to make improvements to H.R. 701, and I've got to say that three of them absolutely astounded me they were so good.

Number one is 100 percent control of how the money is spent would go to the states. Right now, the way the bill is put together the Secretary of Interior, in a top down system, has all final say over how the money is spent and how the state puts their plan together.

Secondly, you've recommended that the states retain all title to water, land and easements acquired with CARA money. Brilliant suggestion and I appreciate that.

And, thirdly, you suggested a local public input process on how CARA dollars will be spent. While that appears rather obliquely in the bill, I think it does need to be shorn up.

You also suggested that the 501-C-3 organizations, we call them the NGOs, nongovernment organizations, may obtain CARA dollars as part of the ground or water matching funds for private wildlife conservation organization projects and I wanted you make a note of what I'm going to refer to you because I'd like to get your input on this.

In Title II, Section 1006.A.1 it already provides for private nonprofit agencies or political subdivisions to be able to receive 70 percent matching funds from the Federal Government. However, it's interesting that the bill requires that the political subdivisions must report back as to how they spend their money to the secretary. They must report back to the Congress. However, that requirement is not in there for the 501-C-3s. So I think the 501-C-3s have gotten a pretty good deal there. But I want to thank you very much for your constructive comments.

Mr. VALENTINE. Well, I would like to take credit for those, Congresswoman, but I think Mr. Peay made most of them.

Mrs. CHENOWETH. Oh, did he? Well, let me direct my comment to him.

Mr. PEAY. We do have a lot of common ground, I think.

Mrs. CHENOWETH. I think we do. And those were, especially the first three, brilliant suggestions and I'd like to work with you on amendments to make sure that we get them into the bill. Thank you.

Mr. HANSEN. Thank you, Mrs. Chenoweth. The gentleman from Idaho, Mr. Simpson.

Mr. SIMPSON. Mr. Chairman, I don't have any specific questions for the panel. I just want to thank you for your testimony and you brought up some interesting points as a land owner. Good question. Shouldn't a land owner be able to sell their land to any willing buyer? I guess that's really the question here. As a land owner, I guess, Mr. Smith, you mentioned that you own land in Nevada and Utah and New Mexico. Should you be able to sell your land to a willing buyer.

Mr. SMITH. If I understand the question, do I have the right to sell my land to a willing buyer? Well, a willing seller and a willing buyer makes the deal. But in many cases we have the problem that the Federal Government causes the land values to be worthless by declaring some petroglyph or some endangered turtle species and then your land is worthless and you have no appraisal to sell and the government depreciates the value of your land below what it's worth.

For example, a $20 million subdivision, because it's infested with turtles, has been declared worthless because you can't use it to sell it. You pay $20,000 a year taxes on it.

Mr. SIMPSON. I agree that's really a problem with inholdings, too, in that they can restrict the use of your land and consequently decrease the value of it. And that is a concern that we ought to address somehow. But fundamentally, as a principle, it seems to me that as a land owner you ought to be able to sell your land to anyone who is willing to buy it, if you want to sell it. You can sell it now to the nature conservancy if you want to. You can sell it to Sierra Club if you want to. You could sell it to virtually any organization that had the right to buy it, that had a willingness to buy it and the money to buy it if you so chose to do it.

Mr. SMITH. I wouldn't in good conscience sell it to the Federal Government.

Mr. SIMPSON. And that would absolutely be your right as a land owner. But other land owners by preventing that, other land owners who may choose to do that would be prevented from doing that and should we by law prevent them from doing that if they so choose to do it of their own free will? Good fundamental question.

Mr. PEAY. I get asked that monthly.

Mr. SIMPSON. By individuals that want to sell their land.

Mr. PEAY. Uh-huh.

Mr. SIMPSON. The other thing that this—the conservation easements, the open space easement, the ability to use open space, today we are in Idaho developing—there's a program that's just beginning where they are trying to develop open spaces by paying ranchers/farmers to keep their land in ranch and farm land so that it's not developed into condos and so forth and so on to maintain those open spaces and the ability to keep some of these lands as open spaces and using that money to be able to do some of that and also to be able to use some of the money to purchase conservation easements and scenic easements in areas like the Sawtooth National Recreation area so that those aren't developed and degraded in future years is a very important aspect of this piece of legislation. Thank you, Mr. Chairman.

Mr. HANSEN. Thank you, Mr. Simpson. The gentleman from Utah, Mr. Cannon.

Mr. CANNON. Thank you, Mr. Chairman. Let me begin by pointing out that there were a few comments about Republicans and Democrats. This really is not a Republican/Democrat issue. It's actually, I believe, a fairly difficult Federal versus local issue and it's substantially complicated by our current practice in America. I just make the point that the current funding under LWCF would be $900 million for Federal acquisition without these bills. Historically, we've averaged about $300 million in Federal funding for

that program and in recent years we've gotten to about $700 million so we've spent a lot of money in the Federal Government and the question is how do we do that.

Let me point out also that it's really not the fact of the matter wildlife versus cattle as Mr. Peay pointed out. Clearly there are a lot of alliances there but we do have substantial issues of our public lands use and our western lifestyle which is extraordinarily affected by the government.

When you have the Endangered Species Act, which I would suggest anybody who looks at a map and had the areas of the map enlarged based upon how many specialists the government has working on the endangered species program, you would see that the southwest is massively disproportionately represented in the heavier vegetated and lands that have greater wildlife on it and the northeast are desperately underrepresented on that map.

And, as a practical matter, I'm going to ask Mr. Smith here to comment on this in a moment, but it seems to me that when you have a Federal Government all the money the Federal Government has, numbers are quite mind boggling, in fact, that they actually become—they so dominate the market that you really don't have the kind of traditional buyer/seller relationship given all the weight that Federal Government has and given its current land base.

Before I do that, Mr. Smith, let me just say, Mr. Peay, those were your suggestions. Did you want to make some more comment on those discussions that Mrs. Chenoweth was talking about earlier?

Mr. PEAY. I guess I have a history of being very blunt and I probably won't change that. But as I sat around the tables 10 years ago listening to all the rhetoric, we decided to find solutions, and there are solutions. And there can be cooperation between sportsmen and ranchers. We've proven that in millions of dollars in projects. Wildlife's benefited, livestock's benefited. You'll notice in there as passionate as we are, my last comment is if this becomes just another Federal program administered out of Washington, we don't want it and I think Congressman Cannon, to follow up what you're saying is also having some comments there that if there's a turtle problem there's $20 million from the Federal Government to do something. But we have chaining projects to help mule deer which 30,000 people in southern Utah are trying to get a mule deer habitat today and the BLM won't do anything about it.

And so there is a disproportionate amount of Federal money already going into turtles and prairie dogs, et cetera and we as the sportsmen try to get a little money for mule deer habitat and can't do that. So we share the concerns but our comments in here are let's find some ways to free up local people to solve conflicts in the west.

Mr. CANNON. And I suspect after what you've said is that the fine point here is that local control works a lot better than Federal control.

Mr. PEAY. Absolutely.

Mr. CANNON. Mr. Smith, would you like to comment any further on the role of the Federal Government as a purchaser of inholdings of public lands?

Mr. SMITH. Yes. I think that it's commonly known that when the Federal Government owns land, that they lock it up, just like was mentioned. They close the roads. These roads in 1888 was declared right-of-ways and they violate that. They violate their own laws. They've been notorious in violating everything that they do. For example, I would like to let these good sportsmen know that once they start funding these lands and buying the lands for them, there are going to be strings attached to them and it'll be a national fish and wildlife, it won't be a state. They'll take them over. Don't they know that? They ought to study that a little bit.

Mr. CANNON. It would be very hard to disagree with those statements in light of the statements that have been made by the Secretary of the Interior over the last couple of years, last six or seven years, six years, when he's talked about the role of the administration and the bureaucracy in deciding what qualifies under the law and what qualifies under his conscience. Thank you. Yield back.

Mr. HANSEN. Thank you. And I agree with the gentleman from Utah. This administration does not have a great track record when it comes to things regarding Federal ground. Grand Staircase Escalante done in the middle of the night with no knowledge, we have to say that in this Committee we're playing defense all the time and we would like to play a little offense because some fertile minds coming up with ways to try to circumvent pending legislation and laws that are on the books.

Mr. Smith, we'd all like a copy of that. We'd like to hear all sides of these issues before we move on legislation and I would appreciate it if you would make sure we could have a copy of the book that you brought up there. There's also a problem on this inholding stuff. As you know, I chair the Committee on Parks and Lands and most people don't like to have their ground in the middle of a national park, so we have maybe two or three acres in one and here it is stuck, the guy's paying taxes on it, he can't get to it, he calls up and wants something out of it. Some people want to hold up the government for it. Others just donate it. It's really hard to figure out how to do it.

One of our beautiful southern Utah parks, for example, there's a gentleman from Las Vegas who owns two acres, called me up, said, Mr. Chairman, I'd like to have a bill to authorize selling me those two acres. I said, Do you want to sell it to us? He said, Yeah. I said, What do you want? He says, A million dollars an acre. I said, Sir, how old are you? He says, I'm 85. I said, Well, wait and buy it from your heirs because you get down to the idea some people really want to hold us up on things. And others don't. But there isn't a good way in the Federal Government, due to legislation, to have a really good way to do these things.

We've held hearings like you can't believe on how do you swap ground? How do you trade ground? How do you do anything? Try it sometime. The average length time to even make a minimal small thing with a municipality is 11 years. So it gets very frustrating. I'm not speaking for or against the bill, I'm trying to say some of the frustrations that I have.

Mr. Smith brought up another interesting point, the Endangered Species Act. It is not at all fair that someone finds a slimy slug on some guy's property which at one time was valued at $20 million

an acre and all of a sudden, as we had, our own Secretary of Interior come into this state and say, We'll give you $600 an acres for it because it has no value. Well, where's the fairness in that? We're trying to rectify that through legislation. But whatever the value of the ground was prior to finding endangered species is only fair to people. And it's totally unfair to ask them to take that kind of loss because somebody finds it. In fact, we've even found instances that have been documented where some people have moved an endangered species, by hand, onto somebody else's property just so that it would lower the price. So there's a lot of unfairness going on and I agree with your statement on that.

Mr. Peay, and I know the great work you've done on the desert big horn sheep. Mr. Cannon introduced a bill last year which he's going to introduce shortly and now called the San Raphael Swell Bill. And in that, which totally amazes me, the people in Emery County have given the environmental communities more than I ever expected they would. As far as wilderness, as far as conservation in the area, as far as the historic area, as far as heritage areas and the whole bill, we got hung up on one little point and that one little point was called Sid's Mountain.

And, through the efforts of John Kimball and Mr. Valentine and others who have been in that position, we've tried to establish in Utah the desert big horn sheep. Unfortunately, there's no water on this ground so they put guzzlers in. Those who understand the criteria of the Wilderness Bill know you can't put a mechanical device in a wilderness area. That one point brought down a ton of bills that we coupled together. Fortunately we passed the majority of them in last minute and hardly anybody knows that happened. And even the Senate finally got away from the Sunday gas bags and got interested and passed a few of those themselves, which totally amazes me.

Anyway, we finally got some of those good pieces of legislation passed. Now we find ourselves in a situation where I would hope that the Sierra Club would look at it for a change in the southern Utah wilderness, and would look at it and would see there is a good piece of legislation and we can protect the desert big horn sheep and I would appreciate the efforts of your organization and being an educational organization take care of that.

Mr. Hall, you mentioned the Pittman-Roberton Bill. What have you folks done on that? You've mentioned you've contributed a lot of money to it. Tell me about that, would you?

Mr. HALL. Well, as you know, the Pittman-Robertson Act is an excise tax charged to the manufacturers of certain sporting arms and ammunition. Browning obviously being a manufacturer of sporting arms has contributed to the excise tax—well, we pay the excise tax on the cost of the manufacturing of our products. I'm not prepared to give you the total dollars that have been spent over the last 50 years or contributed to this but it is something that Browning is involved with. Because we are a manufacturer, that excise tax is charged to us and we do support that Act.

We feel that without those monies the state-funded programs would not have, as Mr. Kimball pointed out earlier I think it was, 35 percent of the monies that the state programs run off of come from the Pittman-Robertson Act. So we appreciate the Pittman-

Robertson Act, we're all for it, but we see this as an opportunity, H.R. 701, to supplement the funds that are coming from the Pittman-Robertson Act to be able to fund some of these state programs for wildlife and for the conservation of our natural resources.

Mr. HANSEN. Thank you. We'll excuse this panel and thank you so much for your testimony. It's been very interesting. And the Committee will now call panel three composed of Mr. Ramirez apparently from a law office in Albuquerque, New Mexico; Mr. George Hyde, chief operating officer of Barnes Bullets, Incorporated, American Fork, Utah; Mr. Ray Foutz, manager of Sportsman's Warehouse, Riverdale, Utah; Mr. Clark Collins, executive director of the Blue Ribbon Coalition of Pocatello, Idaho. We appreciate you being with us. We'll start with you Mr. Ramirez and just go across the board. You all know the rules. You've got five minutes.

STATEMENT OF LESLIE W. RAMIREZ, ATTORNEY, ALBUQUERQUE, NEW MEXICO

Mr. RAMIREZ. Mr. Chairman, members of the Committee. My name is Les Ramirez. I'm representing the Pueblo Santa Ana, a federally recognized Indian nation whose home lands consist of 64,000 acres located approximately 20 miles north of the city of Albuquerque, New Mexico, both of which are located in north central New Mexico.

The Pueblo would like to thank you for the opportunity to testify on both H.R. 701 and H.R. 798. This hearing is especially timely in relation to the considerable open land and open space concerns that are manifest across our nation. This Committee and sponsors of both bills should be commended for their recognition of the significant and pressing issues related to protecting the nation's land and water and wildlife resources for this and future generations. And by trying to resolve the issues by encouraging and implementing Federal and nonFederal partnership.

We, too, as an Indian nation are concerned with how to balance economic development with the restoration and maintenance of the natural world and we too are seeking to resolve these issues in a positive manner. Our lands are intersected by two rivers, the Rio Jemez and the Rio Grande. Both watersheds have been severely altered by Federal and local flood control, economic development and water management activities and by the invasion of exotic nonindigenous vegetation. The results are dramatic losses of riparian habitat, native wildlife, the creation of extreme fire hazards and reduced cultural, religions, economic and recreational value to our people.

Because of this the Tribal Council, the Santa Ana Tribal Council, has allocated over $2 million of its own monies to restore the Rio Grande watershed within our boundaries. That restoration includes the reestablishment of habitat for listed and candidate endangered species. Our hopes are that by restoring this watershed ecosystem, we can contribute to the recovery of the listed species but that we will also be able to help prevent future listing of several other candidate species.

But our efforts are not ended there. We recognize that to be successful the ecosystem needs to be restored beyond our jurisdiction. Thus we have been instrumental in forming an initiative which in-

cludes at this time the largest city in New Mexico, the largest irrigation district in the state, two other Indian Pueblos, and an alliance of national and local environmental groups.

We anticipate that our initiative will continue to grow as more parties learn of the benefit of what we're trying to do. As in many other parts of the country the animosity created in the competition for natural resources and economic resources has created deep divisions that previously prevented collaborative problem solving.

In the Rio Grande prior to our initiative stasis was reached because the main habitat for several endangered species of the river was also supported by the river flows supporting the largest agricultural irrigation. Thus, without a new proposal, the only alternative to save the species and maintain the existing economic structures was to send more water downstream, water that was arguably not available. Santa Ana proposed a new alternative. Rather than move water to fish, why not move fish to water.

More specifically, we suggested that habitat restoration of stretches of the Rio Grande and their attendant year-around flows would effectively support the recovery of the species using the existing flows that were already being conveyed downstream for other uses. This alternative requires the willingness of Indian Pueblos to participate, because they control most of the central Rio Grande. It requires cooperation from environmental communities as well and requires money.

Habitat restoration is an expensive multi-year commitment. Santa Ana's $2.0 million contribution is only a small portion of the costs that are going to be necessary to complete this restoration. Legislation like that which is before the Committee is essential for providing resources that will enable collaborative and cooperative partners to be successful.

Equally important for the Committee sponsors in the Congress is the matter of cost-matching. And to support that by adequately funding tribal restoration participation and by recognizing our invaluable nonmonetary contributions that can be made through the contribution of skill, expertise, land and water resources.

To the extent that Santa Ana believes that both H.R. 701 and H.R. 798 are positive steps, we also must recognize they are somewhat flawed. We urge that Title V of H.R. 798 be amended to provide for 20 percent of the Federal and Indian land restoration fund to be available as grants to qualified Indian tribes under both versions of the proposed legislation.

In addition Congress should raise the maximum grant level available to any one tribe in any one fiscal year from 10 percent to 20 percent. That's because it appears that the total allocation for all Indian tribes in the nation is going to be maximum about $25 million. So a 10 percent allocation is only two and a half million which is too small to actually help create these restoration programs in a timely manner. Timeliness is an important concern because of the pressure felt by many parties under the Endangered Species Act. Acting quickly on this legislation will help take the pressure off communities when it relates to meeting the goals of the Endangered Species Act while avoiding the problems with endangered species enforcement.

From our experience we can assure the committee that such legilation will enable groups like initiative to complete their restoration projects in a timely manner, especially as I mentioned earlier, when they are measured against the need or maintenance need of endangered species.

We also suggest that H.R. 701, including Title II of the legislation be amended to provide grants to Indian Tribes as opposed to the cost match that is currently involved. If that is not possible, a maximum cost share requirement from Indian tribes of 25 percent is recommended and that's because——

Mr. HANSEN. Mr. Ramirez, can you wrap up in one more minute?

Mr. RAMIREZ. Yes.

Mr. HANSEN. We'll give you one more minute.

Mr. RAMIREZ. And that's because many tribes control a significant amount of endangered species critical habitat and should be encouraged to participate in the restoration. Currently, they have to essentially sit on the sidelines while non-Indian groups fight a very depressing battle over how we compile a lot of studies for or against ecosystem restoration. We think Indian tribes can be very positive contributors to the overall resolution but it's going to require some creativity on the part of the Congress in determining and funding what that participation—what amounts of that participation should be and what that participation can comprise of.

I know I've run out of time so I thank the Committee again for the opportunity to testify on these two very important issues.

[The prepared statement of Mr. Ramirez follows:]

STATEMENT OF MR. LES W. RAMIREZ,
REPRESENTING THE PUEBLO OF SANTA ANA

Mr. Chairman and Members of the Committee:

My name is Les Ramirez and I am representing the Pueblo of Santa Ana, a federally recognized Indian tribe whose homelands consist of over 64,000 acres located approximately 20 miles north of the City of Albuquerque, in north - central New Mexico.

We would like to thank you for the opportunity to testify regarding H.R. 701 and H.R. 798. This hearing is especially timely in relation to the ecosystem restoration and open space concerns that are manifested across our nation. This committee and the sponsors of both bills should be commended for their recognition of the significant and pressing issues related to protecting the nation's land, water and wildlife resources for this and for future generations of Americans, and for trying to resolve these issues by encouraging and implementing federal and non-federal partnership.

We too are concerned with how to balance economic development with the restoration and maintenance of the natural world. And, we too are seeking to resolve these issues in a positive manner.

Our lands are intersected by two rivers: the Rio Jemez and the Rio Grande. Both watersheds have been severely altered by federal and local flood control, economic development and water management activities and by the invasion of exotic, non-indigenous vegetation. The results are dramatic losses of terrestrial and aquatic habitat for native wildlife, the creation an extreme fire hazard in our riparian forests and reduced cultural, religious, economic and recreational value to our people. Because of this, the Tribal Council appropriated over $2.0 million to restore the Rio Grande watershed within our boundaries. That restoration includes the re-establishment of habitat for two federally listed endangered species (the Rio Grande Silvery Minnow and the Southwestern Willow Flycatcher). Our hopes are that by restoring the watershed ecosystem, we will not only contribute to the recovery of these two species, but that we will also be able to help prevent the future listing of several candidate species.

But our efforts have not ended there. We recognized that to be successful, the ecosystem needed to be restored beyond Santa Ana's jurisdiction. Thus, we have been instrumental in forming a multi - party initiative which includes, at this time, the largest city in New Mexico, the largest irrigation district in the state, two other Indian Pueblos and an alliance of national and local environmental groups to help restore the Middle Rio Grande watershed. We anticipate that our initiative will continue to grow as more parties learn about the benefits of what we are doing.

As in many other parts of the country, the animosity created from competition for limited natural and economic resources created deep animosities that previously prevented collaborative problem solving. In the Middle Rio Grande, prior to our initiative, an impasse was reached because the remaining viable habitat for several endangered species had diminished to the same areas of the river that supported the largest blocks of irrigated agriculture. Thus, without a new proposal, the only alternative to save the species and maintain the existing irrigation diversions was to send more water downstream, water that arguably was not available. Santa Ana proposed a new alternative: rather than move water to fish, why not move fish to water? More specifically, we suggested that habitat restoration of stretches of the Rio Grande that maintained year round flows could effectively support recovery populations for the listed species using existing flows that were already being conveyed downstream for a multiplicity of purposes.

This alternative requires partnership. It requires the willingness of Indian Pueblos (who control most of the essential restorable watershed) to participate.[1] It requires increased water efficiencies from municipal and agricultural water users. It requires cooperation from the environmental communities. It requires close cooperation and collaboration with the federal resource management agencies. And it requires money.

Habitat restoration is an expensive multi-year commitment. For example, Santa Ana's $2.0 million appropriation is only a small portion of the costs required to complete our Rio Grande watershed ecosystem restoration. Legislation, like that which is the subject of this hearing, is essential.

Equally important is for the Committee, the sponsors and the Congress to recognize what a vital contribution Indian Tribes can make to the purposes of this legislation if the law is flexible enough to: 1) adequately fund tribal restoration efforts; and 2) understand and codify the valuable non-monetary contributions that Indian Tribes can and do make when they participate with their skill, expertise, land, water and other resources. It must be stressed that Indian sovereigns will only participate if that participation does not threaten or impinge upon their sovereignty or governmental decision-making power.

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[1] Most of the habitat to which I refer is within the sovereign jurisdiction of Indian Pueblos. The Pueblos of Santa Ana, Isleta, and Sandia have been working with the initiative, although, at this time, only Santa Ana has committed to and is implementing a full ecosystem restoration.

To that extent, the Santa Ana Pueblo believes that both H.R. 701 and H.R. 798 are somewhat flawed.

We urge that Title V of H.R. 798 be amended to provide for 20 percent of the Federal and Indian Lands Restoration Fund be available for competitive grants to qualified Indian tribes under section 503 (b). In addition we hope that the Congress will raise the maximum grant levels available to any one tribe during any one fiscal year from 10 percent of the Indian allocation to 20 percent. It appears that if the current maximum allocation for all Tribes is $25 million, then the maximum available to any one tribe in any given fiscal year is $2.5 million. From our experience, we can assure the Committee that such a limitation will severely inhibit the ability of Indian Tribes to complete their restoration projects. Such delays add cost to the overall project, and where endangered species recovery is an issue, may significantly limit the positive contribution that habitat restoration can provide, because of the spiraling population declines may outstrip the completion time frames for new habitat creation.

We also suggest that H.R. 701 include in Title II, competitive grant funding for Indian Tribes rather than a cost match as currently proposed. If that is not possible, a maximum cost share requirement from Indian Tribes of 25 percent is recommended. We also recommend incorporation of the provisions contained in Title II for Indian Tribal participation in funding allocations, into Title III, Finally, the funding allocation language of Title III for wildlife conservation and restoration, should also include a competitive grant process rather than cost share. If a cost match is required, that match should be a reduced one for Indian Tribes conforming with the 25 percent maximum Indian Tribal cost match recommended for Title II allocations.

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Alliance for Rio Grande Heritage
City of Albuquerque
Middle Rio Conservancy District
Pueblo of Isleta
Pueblo of Sandia
Pueblo of Santa Ana

June 9, 1999

Middle Rio Grande Restoration Initiative

The Middle Rio Grande Riparian Forest & Riverine Restoration Initiative represents an affiliation of the Pueblos of Santa Ana, Sandia, and Isleta, the City of Albuquerque, the Middle Rio Grande Conservancy District (MRGCD), and the Alliance for the Rio Grande Heritage. We are a diverse group that has come together to explore creative, collaborative, and peaceful solutions to the current water crisis facing the Middle Rio Grande.

Our Initiative has developed a multi-faceted approach of on-going and proposed projects to help restore the Middle Rio Grande ecosystem: riparian restoration projects, including the removal of non-native invasive species that consume large quantities of water and pose fire hazards; improved irrigation efficiencies and drainage systems, which contribute more water to river flow; and, implementation of key elements of the Bosque Biological Management Plan and the draft federal recovery plan for the endangered Rio Grande silvery minnow.

The Initiative is designed to address these issues without affecting private property rights, impacting federal water storage facilities, or creating new depletions.

Our initial proposal is for a supplemental request to FY2000 appropriations in the amount of $11,308,280. We anticipate a project duration of ten years if our efforts are adequately funded. We have communicated with the U.S. Bureau of Reclamation, U.S. Army Corps of Engineers, and U.S. Fish and Wildlife Service, all of whom have expressed a desire to partner with us in this and other complementary efforts.

In comparison to similar restoration work in other river basins, such as salmon recovery in the Pacific Northwest and the Sacramento River restoration in California, ours is a cost-effective and action-oriented proposal. We have identified specific forest and riverine projects that can be accomplished by utilizing existing expertise and data, and by joining our collective assets in a collaborative effort. This will result in a practical solution that maximizes the benefits of the federal funds invested. We understand that appropriate cost-share by Initiative members will be required

and we are prepared to contribute accordingly. Our desire is that the maximum permissible funding be allocated to the Initiative, allowing us to select and prioritize the implementation of projects in a timely manner. We are prepared to work with the appropriate federal agencies to ensure the success of our long-term program.

Attached please find budget proposals, from each of our members, along with brief narrative descriptions supporting our funding requests.

Thank you for your support of this important Initiative.

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Bosque/Riverine Restoration Project,
Santa Ana Pueblo, New Mexico

The Santa Ana ecosystem restoration project would restore the functions and values of the Rio Grande and the riparian forest for the reach of the Rio Grande within the boundaries of the Santa Ana Pueblo, located in central New Mexico, about 20 miles north of Albuquerque. The Rio Grande ecosystem has been severely altered by federal water management (dams, irrigation, flood control, water supplies) and physical changes (channelization, levees, bank stabilization, drains) in the river valley. The river ecosystem has changed from a large floodplain with a relatively shallow river, to an entrenched deep river with little floodplain. In addition, exotic vegetation has invaded the floodplain. These changes have created an unnatural, and unhealthy ecosystem that poses an extreme fire hazard and severely diminishes the functions of the river corridor and its ability to provide adequate habitat for fish and wildlife. As a result, two species of wildlife have been federally listed as endangered, the southwestern willow flycatcher and the Rio Grande silvery minnow.

To date, the Santa Ana Tribal Council has appropriated over $2.03 million dollars from its very limited tribal resources for this project and related tasks. We are seeking federal support in the amount of $4.864 million to assist us in these efforts during FY 2000.

I. Bosque/Riverine Restoration

The centerpiece of the Santa Ana ecosystem restoration project involves re-engineering the Rio Grande channel to remediate the entrenched and degrading river channel to a flatter slope, with an increased width, and a decreased depth. We are seeking $2.0 million to assist in that re-engineering and $25,000 for construction supervision related to those efforts. The U.S. Fish & Wildlife Service has been closely consulted during the planning phases of this project and concurs that the project will provide more diverse aquatic habitat than is presently available and greatly improve the habitat for the endangered Rio Grande silvery minnow.

In addition, we are presently involved in removing invasive non-indigenous trees and other foliage from approximately 1100 acres of our riparian forest. This foliage

(consisting primarily of tamarisk and Russian olive trees) poses a severe fire hazard and consumes large amounts of water that might otherwise remain in-stream to be used for other more beneficial purposes. Restoring the hydrologic function of the Rio Grande will increase the ability of the native forest to resist the re-establishment of non-indigenous trees. To accomplish these tasks we are seeking $15,000 for soils mapping.

After the exotic plants are removed, native vegetation will be replanted. This vegetation will especially benefit the endangered southwestern willow flycatcher, and provide nesting and migratory habitat for neotropical birds. During this phase, additional wetlands will be established. Wetlands support a unique assemblage of wildlife that are themselves potential candidates for listing under the Endangered Species Act. Restored conditions in the project area will also reduce soil erosion and improve water quality. For native plant re-vegetation activities we are requesting $120,000.

It must be stressed that the Santa Ana Pueblo has already committed over $2.0 million dollars of its own monies to these projects and is presently restoring the watershed to the limit of our ability to do so.

II Water Use Efficiency Improvements

Some concern has been expressed that habitat restoration activities, like those being conducted at the Santa Ana Pueblo, may create additional depletions from the Rio Grande and may inhibit the ability of the state to meet its Rio Grande Compact water delivery obligations.

While Indian water rights are not subject to the obligations established by the Rio Grande Compact (see Art. XVI), the goals of the Santa Ana project may be met without impairing the overall flows of the Rio Grande. First, our research indicates that there will be a net reduction of water usage by the riparian forest resulting from the removal of non-indigenous trees and plants. Recent studies have shown that tamarisk and Russian olive trees consume and transpire up to 25% more water than native species. Second, we are seeking $2.7 million dollars to increase the efficiency of our agricultural water delivery systems. The net savings of water use from these efficiencies would remain in-stream. Among the items we have budgeted are: water resources planning ($500,000) to enable the appropriate design of agricultural infrastructure improvements, selection of appropriate crops and cropping patterns, and the integration of the improvements into our existing delivery capability. We are also seeking funding for the lining of our main canal and lateral ditches ($1.913 million) along with improvements to our irrigation controls and gates ($274,195). Materials costs, field leveling and miscellaneous ditch checks and valves make up the remaining elements of our funding request ($16, 325).

The Roles of Indian Tribes in Collaborative Ecosystem Management Planning

Les W. Ramirez*

During the development of collaborative ecosystem management plans, many stakeholders have the ability to influence the design and implementation of resource and wildlife conservation strategies. The stakeholders include governments (federal, tribal, state and local), private landowners and resource developers, public interest groups and concerned citizens.

Indian tribes often play critical roles in the development of such plans because they possess unique interests and powers. These interests and powers arise from the individual tribal cultures, from the Constitutionally protected political relationships between Indian governments and non-Indian governments[1], from the federal trust responsibility to Indian tribes recognized in the U.S. Constitution and resulting jurisprudence[2], and from express treaty[3] and executive order language. The federal Indian trust responsibility extends to the

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[1]U.S. Const. Art. 3, Sec. 8.

[2]*See,* Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1 (1831).

[3]In the mid 1850's Territorial Governor Isaac Stevens negotiated a series of treaties between the United States and Indian tribes located in what is now the State of Washington and along the Columbia River basin. Under the treaties, the tribes ceded their aboriginal title to a large portion of lands they previously occupied in order to reduce conflict between themselves and non-Indian settlers coming into the region. The tribes reserved certain of their lands for exclusive tribal use as homelands and also reserved fishing, hunting and gathering rights outside of the reservation lands. By executing with the tribes the so-called "Stevens Treaties", the United States agreed to honor these reserved territories, powers and rights.

Typical recitals include in part:

> Art. 1
>
> The said tribes and bands hereby cede, relinquish, and convey to the United States all their right, title, and interest in and to the lands and country occupied by them . . .
>
> Art. 2

entire federal government including executive agencies beyond the Department of the Interior.[4]

An important aspect of Indian tribal status in natural resource management is the seniority of Indian reserved rights.[5] Along with the ability for Indians to hunt, gather and fish, Indian tribes and the United States are understood to have implicitly reserved lands and sufficient water to fulfill the purposes of their reservations.[6] Indian resource rights are generally considered to begin at "time immemorial" with a priority vesting date initiating at the establishment, by treaty or executive order, of the concerned Indian reservations.[7] In most cases, such vesting dates make Indian rights among the most senior in watersheds that follow western water appropriation doctrines.

> There shall, however, be reserved for the use and occupation of the tribes and bands . . . a tract or tracts of land sufficient for their wants . . . to be . . . set apart for their exclusive use . . .
>
> Art. 3
>
> The right of taking fish at all usual and accustomed grounds and stations is secured to said Indians in common with all citizens of the Territory, and of erecting temporary houses for the purpose of curing the same; together with the privilege of hunting, gathering roots and berries, and pasturing their horses on all open and unclaimed lands.

Treaty with the Quinault, 12 Stat.971.

[4]*See* Parravano v. Babbitt, 70 F. 3d 539, 546 (9th Cir. 1995), *cert. denied*, 116 S. Ct. 2546 (1996) (Trust responsibility over Indian tribe's rights, including fishing rights, extends not just to the Interior Department but attaches to federal government as a whole. . . the Secretary of Commerce did not act arbitrarily or capriciously by issuing emergency regulations reducing ocean harvest limits in order to conserve salmon runs and protect upstream tribal fishing rights.); Covelo Indian Community v. FERC, 895 F.2d 581 (9th Cir. 1990) (As a federal agency, FERC is subject to the federal Indian trust responsibility . . . the same trust principles that govern private fiduciaries determine the scope FERC's obligations to the tribe.)

[5]United States v. Winans, 198 U.S. 371, 381 (1905) (Rights secured in the treaties are "part of the larger rights possessed by the Indians, . . . [T]he treaty was not a grant of rights to the Indians, but a grant of rights from them - a reservation [by the tribes] of those [rights] not granted.")

[6]Winters v. United States, 207 U.S. 564 (1908).

[7]Id.

For the several tribes, religion, history, heritage, commerce and subsistence often find a nexus in the health and vitality of watershed ecosystems both on and off-reservations. Increasingly, tribes are expressing concern over the resource management practices of other governments and with the activities of private entities, and are seeking alternative allocations of the natural resources and monies to enhance watershed resources according to programs most favorable to tribal perspectives. Conversely, non-Indian governments and private parties often stridently resist change of the status quo. The resulting conflicts too often result in discord and missed opportunities for overall better resource management. Lost in the shuffle are working solutions and chances to clarify or resolve rights and responsibilities to the total benefit of the ecosystems.

Currently, a critical and contentious debate is being waged over the availability of water stored behind federal projects located in unadjudicated watersheds. Tribes and conservationists are calling for larger releases of stored water to support in-stream flows for the enhancement of downstream habitat and fishery resources. For example, Indian tribes in Washington and Oregon are key participants in the efforts to plan for anadromous fish recovery in the Columbia River basin. In Idaho, the Nez Perce tribe's water rights claims in the Snake River basin also call for increased in-stream flows to assist watershed habitat viability. And in the Klamath River basin of Oregon and California, the Hoopa, Yurok, Karuk, and Klamath tribes are pressing for greater access to stored water for fisheries recovery efforts.

While several tribes in these watersheds have joined with wildlife conservation groups in efforts to protect and restore watershed species and habitat, some tribes have also pursued independent actions based on their reserved rights and on the federal Indian trust responsibility.[8] This has put pressure on the federal government to amend its administration of federal water projects and, in some instances, has led the federal government to adjust water diversions to those projects.[9]

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[8]*See* Colville Confederated Tribes v. Walton, 752 F.2d 397 (9th Cir. 1985), *cert. denied* 475 U.S. 1010 (1986); United States v. Adair, 723 F.2d 1394, 1412-14 (9th Cir. 1983), *cert. denied sub nom.* Oregon v. United States, 467 U.S. 1252 (1984); Muckleshoot Indian Tribe v. Trans-Canada Enterprises, Ltd., 713 F.2d 455 (9th Cir. 1983), *cert. denied*, 465 U.S. 1049 (1984); Confederated Salish & Kootenai Tribes v. Flathead Irrig. Dist., 616 F. Supp. 1292 (D.C. Mont. 1985); Joint Bd. of Control of the Flathead, Mission & Jocko Irrig. Dists. V. United States, 832 F.2d 1127 (9th Cir. 1987), *cert. denied*, 108 S.Ct. 1732 (1988). *But see*, In Re General Adjudication of All Rights to Use Water in the Big Horn River Sys., 750 P.2d 76 (Wyo. 1988), *aff'd by equally divided vote,* 492 U.S. 406 (1989) (Big Horn I); *See also* Nevada v. United States, 463 U.S. 110, 113 (1983).

[9]*E.g.* Pyramid Lake Paiute Tribe v. Morton, 354 F.Supp. 252 (D.D.C. 1973) *rev'd*, 499 F.2d 1095 (D.C. Cir. 1974), *cert. denied*, 420 U.S. 962 (1975).

The Secretary of the Interior is often faced with having to manage competing demands brought about by what some see as the Interior Department's conflicting mandates. For example, the Secretary is the chief administrator of federal Indian policy and the federal Indian trust responsibility, and he also oversees huge quantities of water managed by the Bureau of Reclamation. Throughout much of the past, that water has been viewed as a property right of non-Indian agricultural interests in the West.

The Secretary, through the Bureau of Reclamation, manages and operates hundreds of reclamation projects pursuant to the Reclamation Act of 1902.[10] While Section 10 of the Reclamation Act expressly directs the Secretary "to perform any and all acts and to make such rules and regulations as may be necessary and proper" to carry out the reclamation laws[11], agricultural interests often read the reclamation laws as excluding all non-agricultural purposes except those expressly contained in the authorizing legislation for reclamation projects. Conservationists and Indian tribes take a more expansive view of the purposes of reclamation law and the federal government's natural resource management responsibilities. What is clear is that irrigation districts and water users within federal reclamation projects must comply with Secretarial actions taken pursuant to Section 10 and pursuant to contracts executed between the districts, the water users and the Bureau of Reclamation.[12]

Over the past thirty years, federal courts have not hesitated to order the federal government to fulfill its tribal trust obligations and to comply with wildlife conservation and other environmental laws in operating federal power and water projects.[13] Significantly, the

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[10]43 U.S.C. Sec. 372 *et seq.*, Act of June 17, 1902, 32 Stat. 388.

[11]43 U.S.C. Sec. 373.

[12]Pyramid Lake Paiute Tribe v. Hodel, 878 F.2d 207, 212 (9th Cir. 1989); Truckee - Carson Irrigation District v. Secretary of the Department of the Interior, 742 F.2d 527 (9th Cir. 1984), *cert. denied*, 472 U.S. 1007 (1985). *See also* Israel v. Morton, 549 F. 2d 128, 132-33 (9th Cir. 1977) (Water administered by a federal reclamation project, "would not exist but for the fact that it has been developed by the United States. It is not there for the taking (by the landowner subject to state law), but for the giving by the United States. The terms upon which it can be put to use, and the manner in which rights to continued use can be acquired, are for the United States to fix.")

[13]Covelo Indian Community v. FERC, 895 F.2d 581, 586 (9th Cir. 1990) (FERC is subject to federal fiduciary responsibilities towards Indian tribes and met the standards, in the relicensing proceedings for the hydroelectric power project in question, by proposing increased in-stream flows to enhance fisheries including tribal fisheries and by segregating and reserving for future consideration the tribe's implied water rights.); Kittitas Reclamation District v. Sunnyside Valley Irrig. Dist., 763 F.2d 1032, 1033 (9th Cir. 1984), *cert. denied,* 474 U.S. 1032 (1985) (Secretary must operate reclamation projects consistent with vested, fairly implied senior Indian water rights); Pyramid Lake Paiute Tribe v. Morton, 354

courts have also found that a specific statutory directive is not required for the Bureau of Reclamation to manage irrigation deliveries to protect senior, unquantified Indian water rights.[14]

But that is not the end of the debate. While the authorities cited above establish that Indian tribes have reserved and enforceable interests in watershed resource matters, those authorities do not provide the tribes with hegemony in determining watershed management regimes affecting their resources. Under the Reclamation Act the United States shares concurrent jurisdiction with the states regarding water rights. Under developed Western water law, the states retain administrative control over all but federally reserved rights. These conflicting duties and authorities often result in confusion over the extent of federal or state control over stored water. Because of the crucial and politically explosive nature of water rights allocations in the West, most attempts to comprehensively establish and clarify federal or state control of stored water have failed. Instead, federal and state administrators have tried to manage around the issues. Early in this century when federal and state legislators and administrators were faced with disputes over appropriation of stored water, their responses were to "increase the size of the pie" by expanding existing water storage projects or by building new ones.[15] But eventually all of the practical dam sites were built to the limits of economic feasibility and structural capacity.

Now, better management of existing resources has become the focus of administrators and the preferred solution. This means that the resource agencies must begin examining the efficiencies of the existing uses of the resources, the impacts of those uses on the human and non-human worlds and, in many cases, make difficult decisions about adjusting the allocations of the resources. To resolve the inevitable disputes, negotiation/planning sessions are often convened where federal/ non-federal and Indian/ non-Indian stakeholders attempt to hammer out cooperative resource management schemes.

Typically during these discussions all of the involved parties' rights and interests are subjected to challenge. Accordingly, the basis, extent and viability of Indian water rights are often questioned. Usually these questions center around quantification and administration of the amounts of water reserved for satisfaction of the Indian reserved rights.[16] Additionally,

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F.Supp. 252, 255-56 (D.D.C. 1973).

[14]United States v. Adair, 723 F.2d 1394 (9th Cir. 1983), *cert. denied,* 467 U.S. 1252 (1984). *See also* Arizona v. California, 373 U.S. 546, 600 (1963).

[15]An example of such an approach is the development of the San Carlos Irrigation Project (non-Indian)/San Carlos Indian Irrigation Project (Indian) in the Gila River Basin of Arizona.

[16]*See,* Arizona v. California, 373 U.S. 546 (1963) (Adopting the "practicably irrigable acreage" standard for reservations created primarily for agricultural uses. This standard

disputants often challenge the tribes' abilities and willingness to apportion their own valuable reserved rights for habitat conservation purposes. The tribes are, often justifiably, wary of situations where non-Indian economic interests are protected in their resource allocations, while restrictions of Indian reserved rights are proposed in order to provide conservation mitigations for wildlife and wildlife habitat. Indian tribes often view this as another way in which the non-Indian world misunderstands the relationship of humans to the natural world, mismanages that relationship and arrogantly aggrandizes the benefits of natural resource development to itself. [17]

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fixes the amount of reserved water according to the number of acres of the reservation that can be economically farmed if sufficient water were available and by the amounts of water required to sustain those crops); United States v. Ahtanum Irr. Dist., 330 F.2d 897, 915 (9th Cir. 1964), *cert. denied,* 381 U.S. 924 (1965) (Establishing reserved rights to water for the Yakima Reservation to the extent that such water could be put to beneficial use); Arizona v. California (Arizona III), 439 U.S. 419 (1979) (Reserved water use by the lower Colorado tribes is not limited to agricultural purposes, but the quantity is measured by the consumptive use required for irrigation); Cappaert v. United States, 426 U.S. 128 (1976) (Federal reserved rights include groundwater). *Contra*, In Re General Adjudication of All Rights to Use Water in the Big Horn River Sys., 753 P.2d 76 (Wyo. 1988), *aff'd on equally divided vote*, 492 U.S. 406 (1989) (Rejecting applicability of Winters doctrine to groundwater for lack of precedent).

[17]It is important to remember that many Indian tribes were removed far from their original homelands as well as from the commercial mainstream of the nation, and were often prevented from managing the natural resource base of their reservations in culturally appropriate ways. The result was a loss for both Indians and non-Indians. For the tribes, their religions, cultures and economies were severely threatened when land and resources were leased by the federal government to non-Indian concerns who promptly harvested the prime resources to exhaustion then left for new forests and watersheds. Sacred ceremonial sites and sacred life forms were denuded and exploited to extinction. In northern California, the Hoopa and Yurok Tribes had rich cultures and sophisticated economies centered on native wildlife, abundant fisheries and fish canning. During the 1849 Gold Rush, these tribes helped supply the needs for many of the prospectors flocking to California. But non-Indians soon moved to the Klamath and Trinity Rivers overrunning the tribes' fishing grounds and forcing their economies into catastrophic decline. The result for the tribes was bitter economic destitution and alienation. For non-Indians, the result was the unchecked reinforcement of the 19th Century ethos of wholesale resource extraction and exploitation. This ethic continued well into the 20th Century. While there are many reasons for the rapid depletion of much of the natural resource treasure of the United States, one major factor was the lack of prominent alternative models for a more harmonious relationship between human and non-human communities. The practices of selective harvest and carefully husbanded resource use practiced by many Indian tribes were essentially driven into the most remote hinterlands of America. Even for tribes which were peaceful and helpful to non-Indian

This is not to imply that tribes would have selected to follow standard form non-Indian economic development or educational models, but rather is to point out that, in many cases, the federal government's historic failure to aggressively pursue, establish and protect senior Indian rights (especially water rights) and provide the means by which those rights could be put to beneficial use effectively negated the ability of Indian tribes to legally claim and preserve their reserved resources before they were completely appropriated by non-Indian junior users. At the same time, the Congress, at the behest of local and state delegations, was providing massive amounts of money to subsidize and develop junior and legally inferior non-Indian rights. To many Indian tribes this proved that the letter and spirit of American law could be turned on its head where Indian rights came into conflict with non-Indian interests, and led to a deep and lasting distrust of American concepts of justice.

This distrust persists in the current debates over designation of wildlife habitat and in the disputes over resource allocation burdens. To many tribes, the unwillingness of the federal government to previously protect Indian resource rights, and to curtail non-Indian land and resource exploitation resulted in great economic and social violence to Indian people. An unintended result of the favoritism manifested in federal support of non-Indian economic development is that now much of the remaining critical habitat for endangered and threatened species is located in Indian country. Complicating this physical consequence is the national political retrenchment from government economic support and subsidies for agriculture and natural resource development. For Indian tribes, the doors to certain types of economic development long available to non-Indian communities now seem to be closing but only after the benefits of tax payer support to non-Indians have been protected. With the diminishment of the availability of federal aid to the tribes comes the increasing need for tribes to build independent and self-sustaining economies. To do so requires that the tribes retain maximum flexibility in land and resource development.

The Department of the Interior and the Department of Commerce have attempted to address some of these concerns in the Secretarial Order Regarding American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act.[18] Even so, many

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settlers such as the historically agricultural Pima-Maricopa and the Tohono-Oodham Nations, the federal government's relegation of their people to lands far attenuated from mainstream markets coupled with the reluctance of the Congress to protect the water flows necessary for their farms and to adequately fund economic development and education in Indian country led to the crash of their once vibrant economies. Ironically, these tribes had provided saving sustenance for many pioneers traveling across the Sonoran desert bound for California.

[18]Joint Order of the Secretaries of Commerce and the Interior No. 3206. It is interesting to note that the Congress has not provided funding, "in support of consultation efforts with Indian tribes in concert with Secretarial Order 3206. Senate Report 105-277.

tribes remain fearful that their lands will become de facto national wildlife preserves excluded from reasonable development because the tribes lack the political muscle to prevent their lands from being designated as critical wildlife habitat while federal and non-Indian lands remain open for exploitation and development.

The current locus of the land and resource planning debate is in cooperative watershed management and in the identification and designation of critical wildlife habitat for endangered or threatened species. The negotiations often result in intense debates between scientific and legal experts over differing technical definitions, determinations and recommendations advocating changes to or maintenance of the management schemes of resources in the ecosystem. Examples of recurring questions include whether the benefits of increasing in-stream flows alone without other coordinated habitat modification and wildlife conservation measures will achieve improvements to ecosystem health, and constant questioning about specific recommendations regarding the amount, timing, and duration of stored water release and restrictions on non-wildlife use of the resources identified as necessary to achieve watershed management goals.[19]

Often, these conflicts make the cooperation and collaboration necessary to create effective and efficient watershed management plans elusive and difficult to achieve. The legal, technical, and diplomatic skills and sophistication required to successfully conclude such multi-lateral negotiations are immense. Major participants in such planning must be ready to assist players who are not as experienced in these intense and complicated negotiations. Such parties may include at differing times: municipalities, small communities, Indian tribes or bands, private property owners and local organizations of affected private economic interests. The federal, tribal, state, and municipal representatives are often called upon to balance their interests in maintaining the viability of watershed for the public health, welfare and recreation of their constituencies now and in the future against the present demands and needs of their societies and cultures. At their best, representatives of these groups must remember their shared common ground; that they strive to maintain and protect the distinct cultures and environments that make their regions unique and desirable places to live.

It is clear from the above cited cases that Indian tribes have unique standing and powers,

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The Congress expressed concern that the Order is inconsistent with the Endangered Species Act (ESA) as previously enacted and stated, "[u]ntil legislation is enacted which legitimizes the administration's purported goals, the Congress expects the Department to adhere to the ESA as enacted." However, the Congress' failure to fund such consultation does not necessarily prevent the administration from announcing a policy of tribal consultation consistent with the ESA and paid for by the tribes.

[19]The factors necessary to consider in shaping in-stream flows for effective watershed conservation planning include water volumes, temperatures, quality, strength of flow , and timing of release.

especially in respect to the federal administration of water resources, that are relevant and sometimes compelling in the development of collaborative watershed conservation planning. When these authorities are coupled with the facts that many reservations also contain key forest and riparian areas that comprise habitat for important aquatic, avian and terrestrial species, the participation of Indian tribes in watershed planning processes becomes even more vital.

For Indian tribes these collaborative management plans offer promise and danger. They provide tribes direct opportunities to design their resource uses, develop their economies and coordinate their resource uses with others to maximize benefits and minimize detriments. They also create tribal avenues from which to establish and protect their resource rights. And finally, collaborative planning processes work to educate non-Indian parties of the necessary and indispensable role that the tribes play in the future of their states, communities and enterprises. But, if the tribes are not careful, collaborative planning can result in the ratification of unfair advantages to non-Indian users and can place unfair burdens upon the tribes, their lands and their resources.

The promise of collaborative ecosystem resource management planning lies in the opportunities for all affected interests to rationalize and harmonize their activities in ways that will foster ecosystem health through the development of long-range vision and economic certainty. A better understanding of the powers, rights and interests of Indian tribes along with the authorities supporting them (including their current limits) can assist participants in collaborative ecosystem planning to create effective conservation regimes that will achieve the goals common to the human communities of the watershed and help them fulfill their obligations to each other and to the natural heritage.

Mr. HANSEN. Thank you, Mr. Ramirez. Mr. Hyde, recognized for five minutes.

STATEMENT OF GEORGE HYDE, CHIEF OPERATING OFFICER, BARNES BULLETS, INC., AMERICAN FORK, UTAH

Mr. HYDE. Mr. Chairman and members of the Resource Committee. Thank you for the opportunity to address the issue of funding for the future of wildlife. My name is George Hyde and I'm here on behalf of Barnes Bullets, Incorporated, a manufacturer of hunting bullets and shooting products and a supporter of many of the wildlife conservation organizations in this country.

I want to applaud the congressional sponsors of H.R. 701 Conservation and Reinvestment Act of 1999 for their vision in seeing that there is funding for the future of wildlife and the conservation of resources, including habitat to support it. This is a long-awaited effort to make good on promises made in previous Acts like the Land and Water Conservation Fund, which have either gone without funding or have been woefully underfunded and have therefore fallen short of providing necessary change in support of wildlife.

Barnes Bullets, which is located in American Fork, Utah is the nation's oldest manufacturer of custom bullets for handloading. As such, we have the opportunity to travel the world and are actively involved in many national and international wildlife conservation organizations. We are a proponent of protecting wildlife habitat, educating the public and having law enforcement for the protection of wildlife.

These are important facets of every nation's plan for the future of wildlife. Investing in these endeavors is essential and has a direct impact on our business which directly employs 35 people in Utah County and indirectly contributes to the employment of thousands of men and women throughout the country.

Outdoor recreation, including hunting and fishing, contribute billions of dollars in the U.S. economy annually in the creation of jobs, sales of sporting goods equipment and other community economic benefits. Sportsmen in this country have for years contributed billions of dollars to perpetuate wildlife so that they can pass their heritage to future generations. Our company supports these efforts because we believe in the cause and we benefit as well.

CARA funds, as proposed in H.R. 701, will be used to supplement and augment the existing conservation programs heretofore funded almost exclusively by sportsmen and sportswomen through wildlife organizations and excise taxes paid on equipment. We support H.R. 701, Conservation and Reinvestment Act of 1999 and hope that it will be passed in this legislative session.

Wildlife is a renewable resource and through habitat restoration and proper management, it has been shown that populations can not only be perpetuated, but improved, for future generations. In fact, the progress in the State of Utah over the last century is an example of what investing in wildlife through hunting and fishing license fees and Pittman-Robertson's excise tax and wildlife organization efforts can do for wildlife.

Here are just a few examples. Elk in 1920 were nearly extinct in Utah. Populations in 1999 are about 60,000. Mule deer rarely sighted in 1920, are now at 300,000 plus. Big horn sheep, which

were rarely sighted in 1920, are now at about 3,000. Wild turkey, which were extinct in 1920, have been reintroduced and are now at 8,000. Cougars, less than 1,000 in 1920, are now at 2,500. This type of resurgence is happening throughout the country but it needs to be sufficiently funded to reach its potential.

CARA would ensure that permanent dedicated funding were in place and it would allow for the expansion of programs begun by sportsmen and wildlife organizations, programs necessary for the long-term benefit of wildlife. Some groups and individuals would focus CARA funds on nongame species and predatory species. They fail to recognize the fact that by restoring funding of game species populations and their accompanying habitat, using billions of sportsmen's dollars, predators and nongame species have been and will be mutually benefited. They are interdependent and the greater advantage for all will be accomplished by providing game species habitat which supports the ecosystem for all species and provides economic benefits as well.

We support the legislation proposed by H.R. 701 and would like to see the following incorporated into the final version. Under the Federal ownership of land we would like to see that state and local control be maintained and that they control management decisions regarding Federal land provided funded by CARA. The best government is the government closest to home.

We'd also like to see another provision that would focus CARA funds on game species and their related habitat. For decades sportsmen have restored wildlife species enjoyed by all and they have funded the conservation and restoration of habitat for nongame species. We believe that it is time that additional funding be secured.

In conclusion, I again applaud the sponsors of this legislation and support the effort of the Conservation and Reinvestment Act of 1999. With the incorporation of the items I discussed, we can ensure the future of wildlife for a permanent dedicated funding program that cannot be diverted to other programs or debt reduction, a fulfillment of promises long in need of funding.

[The prepared statement of Mr. Hyde follows:]

Providing Funding for Wildlife
Testimony before the House Resources Committee
By George E. Hyde
Vice President and Chief Operating Officer
Barnes Bullets, Inc.
June 12, 1999

Mr. Chairman, Members of the Resources Committee, thank you for the opportunity to address the issue of funding the future of wildlife. My name is George E. Hyde and I am here on behalf of Barnes Bullets, Incorporated a manufacturer of hunting bullets and shooting related products and supporter of many wildlife conservation organizations.

I want to applaud the congressional sponsors of H.R.701, the Conservation and Reinvestment Act of 1999, for their vision in seeing that there is funding for the future of wildlife and the conservation of resources, including habitat, to support it. This is a long awaited effort to make good on promises made in previous acts like the Land and Water Conservation Fund which have either gone without funding or have been woefully underfunded and have therefore fallen short of providing the necessary change in support of wildlife.

Barnes Bullets which is located in American Fork, Utah is the oldest manufacturer of custom bullets for hand loading. As such we have the opportunity to travel the world and are actively involved in many national and international wildlife conservation organizations. We are proponents of protecting wildlife habitat, educating the public and having law enforcement for the protection of wildlife. These are important facets of every nation's plan for the future of wildlife. Investing in these endeavors is essential and has a direct impact on our business which directly employs over 35 people in Utah County and indirectly contributes to the employment of thousands of men and women throughout the country. Outdoor recreation, including hunting and fishing, contributes billions of dollars to the U.S. economy annually through the creation of jobs, sales of sporting goods equipment and other community economic benefits. Sportsmen in this country have for years contributed billions of dollars to perpetuate wildlife so that they can pass their sporting heritage to future generations. Our company supports these efforts because we believe in the cause and we benefit as well.

CARA funds as proposed in H.R. 701 will be used to supplement and augment the existing conservation programs heretofore funded almost exclusively by sportsmen and sportswomen through wildlife organizations and excise taxes paid on equipment. We support H.R. 701, the Conservation and Reinvestment Act of 1999 and hope that it will be passed in the 1999 Legislative Session.

Wildlife is a renewable resource and through habitat restoration and proper management it has been shown that populations can not only be perpetuated but improved for future generations. In fact the progress here in the state of Utah over the last century is an example of what investing in wildlife through hunting and fishing license fees, the Pittman-Robertson excise tax and wildlife organization efforts can do for wildlife. Here are a few examples:

Specie	**Populations in 1920**	**Populations in 1999**
Elk	Near Extinction in Utah	60,000
Mule Deer	Rarely Sighted	300,000+
Big Horn Sheep	Rarely Sighted	3,000
Wild Turkey	Extinct in Utah	8,000
Cougar	Less than 1,000	2,500

This type of resurgence is happening throughout the country but needs to be sufficiently funded to reach its potential. CARA would ensure that permanent, dedicated funding were in place. And it would allow for expansion of programs begun by sportsmen and wildlife organizations, programs necessary for the long term benefit of wildlife.

Some groups and individuals would focus CARA funds on non-game species and predatory species. They fail to recognize the fact that by restoring abundant game species populations and their accompanying habitat using billions of sportsmen's dollars predators and non-game species have been and will be mutually benefited. They are interdependent and the greater good for all is accomplished by providing game species habitat which supports the ecosystem for all species and provides economic benefits as well.

We support the legislation proposed by H.R. 701 (CARA) and would like to see the following incorporated into the final version:

Federal Ownership of Lands- We would like to see state and local control of management decisions regarding Federal Lands funded by CARA. The best government is that closest to home.

In most of the western states the majority of hunting, fishing, horseback riding, camping and other outdoor activities are done on lands held in a public trust. While there is a valid concern that in the future public lands will be closed to hunting and fishing, that has already happened on the majority of privately held land here in Utah and more so in other parts of the country. Most privately owned property is posted No Hunting, No Fishing or No Trespassing. Although there has been dramatic improvement in recent years here in the state of Utah it has been because of the changes in laws allowing landowners to profit from wildlife.

For those who erroneously claim that converting lands, grazing permits and water rights to the support of wildlife hurts the local economy they need to look at the economic benefits this shift in resources provides. Revenue is shifted from ranching to gun and bullet makers, taxidermists, sporting goods and grocery stores, gas stations, ATV manufacturers and dealers, guides and outfitters, etc.. PILT payments in many cases provide local counties with revenue in excess of what the Green belt taxes would yield.

In Utah deer herds have dramatically declined from populations in the 1970's primarily because of the decline in their winter range areas. They will continue to decline unless that critical habitat is protected. We certainly do not condone the condemnation of privately held property by the federal government (or anyone else) for protection of winter range. However, if there are willing sellers, it is in the best interest of the American people to protect winter habitat for wildlife and protect the public's access to public lands.

Securing easements or title to critical winter range for deer, elk, moose and many other species allows the public to enjoy on these species public lands in the spring, summer and fall. It makes no sense to secure only spring and summer range if wildlife cannot survive the winter. With the current value of real estate in the Utah Valley it may already be to late to protect the winter ranges for this area, but other areas can be saved. Local management of CARA funded wildlife projects would allow theses issues to best be addressed. Therefore H.R. 701 needs to include a provision clearly stating that CARA funded lands be managed by local wildlife management with public input.

Another provision that needs to be included in the legislation is:

CARA funds should focus on game species and their related habitat needs.

For decades sportsmen have restored wildlife species enjoyed by all. They have funded the conservation and restoration of habitat for game and non-game species alike, wildlife that has been enjoyed by all by all citizens. There is an injustice in allowing those who would have non- game species dominate the use of CARA funds to prevail. Whenever turtles, prairie dogs or other species need help, the federal government pays the entire bill. CARA funds should supplement and augment, or even repay, the existing hunting and fishing programs that have carried the load for game species during the past century. These programs have and will continue to provide habitat for all wildlife.

A detailed review of Utah wildlife programs will reveal that for decades Mule deer license money has been used to fund programs and overhead that protect many, many species, including threatened and endangered species. Again, its our belief that the greater good can be derived for all wildlife by focusing CARA funds on game species and combining these funds in support of already productive funds being contributed by sportsmen and wildlife conservation organizations.

In conclusion, I again applaud the sponsors of this legislation and support the effort of the Conservation and Reinvestment act of 1999 (CARA). With the incorporation of the items I've discussed we can ensure the future of wildlife through a permanent, dedicated funding program that cannot be diverted to other programs or debt reduction. A fulfillment of promises long in need of funding.

Mr. HANSEN. Thank you, Mr. Hyde. Mr. Foutz.

STATEMENT OF RYAN FOUTZ, MANAGER, SPORTSMAN'S WAREHOUSE, RIVERDALE, UTAH

Mr. FOUTZ. Thank you, Mr. Chairman and the Committee. My name is Ryan Foutz, manager of Sportsman's Warehouse in Ogden, Utah, and I just sell Mr. Hyde's bullets. We also have stores in Salt Lake and Provo and I want to thank you for taking the time of holding these hearings on an important piece of legislation, the Conservation and Reinvestment Act of 1999.

The Utah Governor's Office of Planning and Budget estimates the economic impact of hunting, fishing and wildlife recreation is an access of $550 million in Utah annually. This generates over $40 million a year in sales tax for Utah and provides thousands of jobs. Unfortunately, the Utah legislature has only seen fit to reinvest $3 million a year of this $40 million to preserve this large industry. This number slipped to less than $200,000 in 1993 before sportsmen rose up by the thousands and requested more attention to our outdoor heritage.

While some may question the economic impact of wildlife in Utah, let me assure you we know the impact is huge. Our three stores alone generate over $35 million a year in retail sales and we employ over 180 people. Our stores alone pay in excess of $2.2 million a year in sales tax. Our stores sell hunting, fishing and camping equipment and accessories. We do not sell ATVs, horse trailers, camp trailers, boats and many other large sticker items to be used in the outdoor recreation activities. Hundreds of thousands of Utah citizens enjoy hunting, fishing interaction with wildlife on a yearly basis.

Additional funding is required to protect wildlife habitat. I would like to testify in favor of public ownership of land, the funds from CARA to be used to acquire land. We are appreciative that the legislation gives as much control as possible to local states. We can manage Federal lands better from Utah than the Federal Government can do from Washington, DC.

There are too main reasons why we support ownership of public land and acquisition of more. We support private property rights and private property owners to have economic incentives to support publicly owned wildlife on private lands. However, more and more private land in Utah is being posted with no trespassing signs. Hunting and fishing and recreation by the locals are no longer being allowed. The vast majority of our customers, some hundred thousand plus Utah, hunt, fish and recreate on public land and public waters. It is the only place they can go and enjoy the western heritage of hunting and fishing. Some greedy property owners try to exert control by blocking access to vast acreages of public land because they own small ribbons of private land surrounding national forests. CARA funds should be allowed to be used to secure easements, access or even title to key private holdings that would allow access to public lands.

The second reason is to protect critical winter range habitat. It does no good to set aside millions of acres of public land on high level summer ranges and have no winter ranges, mostly private lands to support animals in the winter. One specific example is

there are hundreds of thousands of acres of summer range in the high Uintahs. There used to be a large elk herd there which was the most popular elk hunting in northern Utah. In the early '90s the Wyoming ranchers successfully lobbied for nearly unlimited elk hunts with seasons extending well into late January. The high Uintah elk herd has been dramatically reduced and that reduces hunters, which reduces our business.

CARA dollars would be used to find solutions with the land owners controlling only a few thousand private acres that are a bottleneck for elk populations on hundreds of thousands of acres of public lands. There are millions of acres of existing Federal lands that could be improved for wildlife by using habitat manipulation techniques such as chaining, burning and reseeding efforts. Water development projects such as guzzlers are also critical for wildlife populations of all varieties in the arrid west. In-stream flow projects protect our fisheries. The public shooting grounds such as Farmington Bay, Ogden Bay, Locomotive Springs and others provide tremendous opportunity for the public to have a place to enjoy water fowl hunting and provide tremendous habitat for many species of birds.

Public ownership of land is a great blessing. It is a place where all of us can recreate. Even though public ownership of land is a challenge to manage, we strongly support as much local control over Federal land as possible. It is far better than the alternative no trespassing signs where only the wealthy few are allowed in. CARA funds, if properly invested, will protect wildlife habitat that protects a $500 million industry in Utah. CARA funds will protect a great family heritage of hunting, fishing and outdoor recreation and we encourage Congress to pass this legislation. Thank you.

[The prepared statement of Mr. Foutz follows:]

STATEMENT OF RYAN FOUTZ, MANAGER, SPORTSMAN'S WAREHOUSE, OGDEN, UTAH

Dear Congressman,

My name is Ryan Foutz, Manager of the Sportsman's Warehouse store in Ogden, Utah. We also have stores in Salt Lake and Provo. Thank you for taking time to hold hearings on an important piece of legislation, the Conservation and Reinvestment Act of 1999 (CARA).

The Utah Governor's office of planning and budget estimates the economic impact of hunting, fishing and wildlife recreation is in excess of $550 million in Utah annually. This generates over $40 million a year in sales tax for Utah, and provides thousands of jobs. Unfortunately, the Utah legislature has only seen fit to re-invest $3 million a year of this $40 million to preserve this large industry. This number slipped to less than $200,000 in 1993 before sportsmen rose up by the thousands and requested more attention to our outdoor heritage.

While some may question the economic impact of wildlife in Utah, let me assure you we know the impact is huge. Our three stores alone generate over $35 million a year in retail sales and we employ over 180 people. Our stores alone pay in excess of $2.2 million a year in sales tax. Our stores sell hunting, fishing, and camping equipment and accessories. We do not sell ATV's, horse trailers, camp trailers, boats, and many other large ticket items used in outdoor recreation activities. Hundreds of thousands of Utah citizens enjoy hunting, fishing, and interaction with wildlife on a yearly basis. Additional funding is required to protect wildlife habitat.

Support of Public Ownership of land

I would like to testify in favor of public ownership of land, and funds from CARA to be used to acquire land. We are appreciative that the legislation gives as much control as possible to local states. We can mange Federal lands better from Utah, with Utahn's than the Federal Government can do from Washington DC. There are two main reasons why we support ownership of public land, and the acquisition of more.

We support private property rights and private property owners to have economic incentives to support publicly owned wildlife on private lands. However, more and more private land in Utah is being posted with no trespassing signs. Hunting, fishing, and recreation by the locals is no longer being allowed. The vast majority of our customers, some 100,000 plus Utahn's, hunt, fish, and recreate on public land and public waters. It is the only place they can go and enjoy the western heritage of hunting and fishing. Some greedy property owners try to exert control by blocking access to vast acreage of public land, because they own small ribbons of private lands surrounding national forests. CARA funds should be allowed to be used to secure easements, access, or even title to key private holding that allow access to public lands.

The second reason is to protect critical winter range habitats. It does no good to set aside millions of acres of public land on the high elevation summer ranges, and have no winter ranges, mostly private lands, to support animals in the winter. One specific example. There are hundreds of thousands of acres of summer range in the High Uintas. There used to be a large elk herd there, which was the most popular elk hunting in northern Utah. In the early 90's, the Wyoming ranchers successfully lobbied for nearly unlimited elk hunts, with seasons extending well into late January. The High Uintas elk herd has been dramatically reduced, and that reduces hunters, which reduces our business. CARA dollars could be used to find solutions with landowners controlling only a few thousand private acres, that are the bottleneck for elk populations on hundreds of thousands of acres of public lands.

There are millions of acres of existing Federal lands that could be improved for wildlife by using habitat manipulation techniques such as chaining, burning, and re-seed efforts. Water development projects such as guzzlers are also critical for wildlife populations of all varieties in the and west. In stream flow projects protect our fisheries.

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Public ownership of land is a great blessing. It is a place where all of us can recreate. Even though public ownership of land is a challenge to manage, and we strongly support as much local control over Federal land as possible, it is far better than the alternative of no trespassing signs where only the wealthy few are allowed in.

CARA funds, if properly invested, will protect wildlife habitat. That protects a $500 million dollar industry in Utah. CARA funds will protect a great family heritage of hunting, fishing, and outdoor recreation. We encourage Congress to pass this legislation.

While we take great pride in taking care of ourselves out west, the west is growing to rapidly. There is to much pressure upon our natural resources. We encourage all Americans to look at the tremendous contribution sportsmen have made up to this point. BILLIONS of dollars to restore wildlife and protect their habitats. Sportsmen can no longer fund the wildlife conservation bill for all animals, for all people. CARA funds, which if properly invested, via a public input process as called for in Title III, section 302, will help preserve all wildlife, our quality of life, and our businesses.

Mr. HANSEN. Thank you, Mr. Foutz. Mr. Collins, you're recognized for five minutes.

STATEMENT OF CLARK COLLINS, EXECUTIVE DIRECTOR OF THE BLUE RIBBON COALITION OF POCATELLO, IDAHO

Mr. COLLINS. I want to thank the Committee for the opportunity to testify before the Committee regarding our opposition to H.R. 701 and H.R. 798. The Blue Ribbon Coalition is a national organization representing the interests of primarily motorized back country users. We also have some equestrians, resource industry workers and mountain bicyclists as members. We are concerned about the loss of recreation access. How much public land do we need? Who should be able to use it?

We represent recreationists in western states that are over one half Federal land with additional state land thrown in for good measure. In the midwest there is a mix of Federal, state and even

county public land. Eastern states have a very low percentage of Federal land but state forests are common in these states. Recreation access to these so-called public lands is in constant jeopardy.

I would like to give you a few examples. One example is the BLM planning for the Grand Staircase Escalante National Monument in Utah. And I'm going to refer in these examples to articles in Blue Ribbon Magazine and I'm going to ask that they be submitted as Appendix A, B and C to the public record on this hearing.

Mr. HANSEN. Not objectionable.

Mr. COLLINS. The first article on the Grand Staircase Escalante planning process, one of our member organization representatives, Rainer Huck, with the Utah Shared Access Alliance pointed out the problems that our groups are having with the planning for that national monument in that it seems that the BLM is intent on closing that area up and restricting access, rather accommodating the existing uses in that area.

Public lands in midwestern states are also becoming more restricted and I don't mean just for motorized users. One of our equestrian members, the Shawnee Trail Conservancy, may have to go to court to prevent horseback riders from being kicked off trails in the Shawnee National Forest in Illinois. And I'm referring in my testimony to an article that was in the April 1999 Blue Ribbon Magazine in which the article on this issue points out that the horseback riders in that state are being targeted by not only the Federal land managers but the state recreation management agency for elimination of a lot of the trails on the Shawnee National Forest. So here's an example of a nonmotorized user being thrown off of Federal lands because of what are perceived as unacceptable impact.

We also have members in eastern states who recreate on state or private land. A threat to them that is relevant to this hearing is the Northern Forest Stewardship Act. At a Vermont conference featured in the August 1998 Blue Ribbon, Briant Watson of the Vermont Association of Snowmobile Travelers pointed out the problem that this eastern recreation group has with the possibility of a large part of the northeast, the New England states being taken up by the Federal Government and managed by Federal agencies. And our eastern snowmobilers who have cooperative agreements with eastern private land owners for their snowmobile trails out there are very concerned about the prospect of that land being bought up by the Federal Government and they're concerned about the kind of problems that we have in our western states with our western Federal lands.

Recreation on our Federal lands is under direct attack in the current administration. Tank traps as referred to earlier by Representative Chenoweth have been dug in access roads on the Targhee National Forest near our home office in Idaho. Snowmobile and boating access to our national parks is threatened. BLM lands throughout the west are being closed and gated and I understand that Representative Cannon had a recent experience on some BLM lands that were closed and gated. You might want to comment on that.

Mr. CANNON. I might point out that the Tribune was harsher on me than the BLM was.

Mr. COLLINS. That's what I've heard. Many land managers treat lands that should be available for public use as if they are managing the King's forest. They feel they must keep the commoners out. The Blue Ribbon Coalition is working with our member organizations nation-wide to address this problem. We don't think it's going to be of benefit to recreation access to provide the Federal Government with a checkbook to buy up more Federal land.

The statement by interior secretary Bruce Babbitt gives us an idea of where this attitude may originate, at least within the interior agencies. At a White House press conference on land acquisition Babbitt was asked—and I'm going to quote directly here because I'm pretty sure that Secretary Babbitt would not appreciate me paraphrasing his comments, but I'm going to directly quote the question and his comment. The question was, What is the wilderness protection for the national park areas? Does that mean no roads, no commercial development, nothing?

Secretary Babbitt's response to that question makes clear his intentions for any Federal lands added to the public domain, and I quote. "Yeah. The essential add-on from a wilderness designation in a national park is precisely that," Babbitt said. "No more roads, no motorized intrusions, no snowmobiles, jet skis, or RVs. That's the real issue. And it of course precludes any kind of development as well and sometimes that does happen in national parks, however well intentioned, and we need to make sure that it doesn't."

The Blue Ribbon Coalition was founded to address wilderness advocacy group attacks on motorized recreation. More recently, however, these same groups have become more critical of equestrian and mountain bicycle use in the back country. As a result, we have gained equestrian and mountain biker members. These nonmotorized trail users realize the value of working with our motorized recreation groups to protect and share our recreation areas.

The Blue Ribbon Coalition is very concerned about the LWCF related bills being offered by this Congress. The focus in these proposals on the purchasing of private inholdings for additions to the Federal estate and conservation easements is a concept that we cannot support. It has been our experience that property purchased with LWCF monies is managed to severely restrict or limit access or is managed as defacto wilderness.

In conclusion, we hope that the Committee on Resources will address our concerns with H.R. 701 and H.R. 798. The recreationists we represent have historically been locked out of lands purchased by LWCF. We believe the whole concept of the Land and Water Conservation Fund should be changed from a land acquisition program to one that focuses on funding for the maintenance of the public lands already under Federal and state control.

Thank you for the opportunity to represent recreation interests at this hearing and I'd be happy to answer questions.

[The prepared statement of Mr. Collins follows:]

STATEMENT OF CLARK L. COLLINS, EXECUTIVE DIRECTOR, BLUERIBBON COALITION

Chairman, and members of the Committee on Resources. Thank you for the opportunity to testify before the Committee regarding our concerns with H.R. 701, the "Conservation and Reinvestment Act of 1999" and H.R. 798, the "Permanent Protection for America's Resources 2000 Act."

The BlueRibbon Coalition represents 404 member organizations, 351 member businesses and 5,482 individual members. We are based in Pocatello, Idaho, and are a national organization. While our Coalition primarily represents the interests of motorized back country users, we also have many equestrian and mountain bicyclists as members. Some resource industry interests, who share our recreation access concerns, also support our organization. Our members are primarily concerned with protecting their recreation access.

How much "public" land do we need? Who should be able to use it?

We represent recreationists in Western states like Nevada, Idaho, and Utah that are over half Federal land. Millions more acres in these states are also managed by state land management agencies. Most of the recreation access we are fighting to protect in the West is on those Federal and state lands. In the Midwest there is a mix of Federal, state and even county controlled " "public land." Eastern states have a very low percentage of Federal land, but state forests are common in these states. Recreation access to these so-called public lands is in constant jeopardy. I would like to give you a few examples.

One example in the West is the BLM planning process currently underway for the Grand Staircase-Escalante National Monument in Utah. In an article published in the January 1999 issue of BlueRibbon Magazine, Rainer Huck, with one of our member organizations the Utah Shared Access Alliance, said, "Four of the five alternatives presented in the Draft will place severe restrictions on off highway vehicle access and recreation, ignoring the heritage, traditions, and legal rights associated with this use. . . . It is obvious that the restriction of vehicular access is the major focus of the entire planning efforts, since this is the headline issue addressed in each of the alternatives." I would like to request that the entire article be accepted for the public record on this hearing as Appendix A to my testimony.

"Public" lands in Midwestern states like Kentucky, Indiana, and Illinois are becoming even less accommodating for back country recreationists, and I don't mean just for motorized users. One of our equestrian organizational members, The Shawnee Trail Conservancy, is apparently going to have to file suit against the Shawnee National Forest to prevent horseback riders from being kicked off trails in that forest. An article on this issue in the April 1999 BlueRibbon Magazine points out the kind of problems our non motorized members face. "Radical environmentalists have been viewed tacking hundreds of lie-filled inflammatory flyers on trees throughout Shawnee trails and natural areas. This trash degrades the forest's beauty and creates a litter-laden garbage dump as it blows around the forest landscape." I also request that this entire article be accepted, as Appendix B, for the public record of my testimony at this hearing.

We also represent recreationists in Eastern states like Vermont, Massachusetts, and Maine with very little Federal land. Recreation access in those states is largely on state land or dependent on the generosity of private land owners. In these Eastern states, state land managers are becoming more and more restrictive in their recreation access policy. There are many examples of recreation access restrictions being imposed on the so-called "public" lands in the East. A threat to recreation access that is particularly relevant to consideration of these Land and Water Conservation Fund (LWCF) bills, however, is the Northern Forest Stewardship Act. LWCF money is the likely source for money needed to purchase the private lands being considered in this proposal. At a Vermont conference on this issue, featured in the August 1998 BlueRibbon Magazine, the Executive Director of the Vermont Association of Snow Travelers (another of our member organizations) Bryant Watson said, "We have been working with private landowners on our snowmobile trail system for many years. We don't need Federal agencies interfering with that relationship." I ask that this article also be submitted in total, as Appendix C of my testimony, for the public record on this hearing.

Recreation access to Federal lands is under direct attack in the current administration. "Tank traps" have been dug in access roads on the Targhee National Forest near our home office in Idaho. Snowmobile access to Yellowstone, Voyageurs, and Denali National Parks is threatened. Boating access is threatened in Isle Royal National Park and the Boundary Waters Canoe area. BLM lands throughout Utah are being closed and gated.

Many land managers treat lands, that should be available for public use, as if they are managing the "Kings" forest. They feel they must "keep the commoners out." The BlueRibbon Coalition is working with our member organizations nationwide to address this problem.

A statement by Interior Secretary Bruce Babbitt gives us an idea of where this attitude may originate, at least within the Interior agencies. At a January 12, 1999, White House press conference on the Land acquisition proposals being forwarded by

the administration and Congress Babbitt was asked, "What is the Wilderness protection for the national park reas? Does that mean no roads, no—any commercial development, nothing?" Secretary Babbitt's response to that question makes clear his intentions for any Federal lands added to the public domain. "Yeah, the essential add-on, from a Wilderness designation in a national park is precisely that," Babbitt said. "No more roads; no motorized intrusions. No snowmobiles, jet-skis, ORVs. That's the real issue—and it, of course, precludes any kind of development as well. And, sometimes, that does happen in national parks, however well-intentioned. And we need to make sure that it doesn't."

Federal and state lands are considered by many to be available for recreation use. In fact, in the name of "recreation and tourism," some Wilderness advocacy groups, are advocating the elimination of all resource industry activities on these "public" lands. Saying they represent recreation, these "anti-recreation" groups have lobbied for the elimination of any timber harvesting, livestock grazing or oil and mineral exploration. Now, our resource industries have been practically driven from this country into third world nations who lack our environmental regulations. Emboldened by their success in bringing our resource industries to their knees, these Wilderness advocacy groups are becoming more open about their opposition to recreation and tourism. They are actually anti-recreation access.

The primary catalyst for the founding of the BlueRibbon Coalition in 1987 was Wilderness advocacy group attacks on off highway vehicle recreation. These groups have always opposed the use of anything with a motor, anywhere. They are especially opposed to motorized access to our back country recreation areas. The bulk of our membership still is from the motorized recreation community.

More recently, however, these same groups have become more critical of equestrian use in the back country. As a result we have gained members from the equestrian trail user community. These horseback riders realize the value of working "with" our motorized recreation groups to protect and share our recreation areas.

One of the fastest growing back country recreation interest groups in the country are mountain bikers. The Wilderness advocacy groups' reaction to this popular sport has been real interesting to watch. The green advocacy groups first tried to keep this non-motorized user in their camp. However, due to the fact that mountain bikes aren't allowed in designated Wilderness areas, the bikers are rapidly realizing that this alliance is a one-way street. When the end goal of Wilderness designation is achieved, mountain bikers realize they are going to be sacrificed. As a consequence, we are getting increased interest from mountain bikers who realize the value of working with us to preserve our "shared" access.

The BlueRibbon Coalition is very concerned about the current plethora of LWCF related bills being offered by this Congress. We support adequate funding for important resource protection efforts, safety issues, recreation enhancements, and other infrastructure improvements to existing Federal and state lands. However, the focus by this Congress on the purchasing of private inholdings for additions to the Federal estate and "conservation easements" is a concept that we cannot currently support. Historically these lands are not managed in concert with traditional multiple-use values. **It has beenour experience that property purchased with LWCF monies is either gated off and a barbed wire fence installed, or signed and posted closed with severely limited access, or managed as defacto Wilderness.** To date, we do not know of any lands purchased with LWCF funds that are managed for traditional multiple-use.

In conclusion, we hope that the Committee on Resources will address our concerns with the current lack of multiple-use recreational opportunities contained in H.R. 701 & H.R. 798. These bills are being promoted as being good for recreation. We don't think so! The recreationists we represent have historically been locked out of lands purchased by the LWCF. We believe the whole concept of the Land and Water Conservation Fund should be changed from a land acquisition program to one that focuses on funding for the maintenance of the public lands already under Federal and state control.

Appendix A



Escalante Draft Management Plan Threatens OHV Recreation Access

by Rainer Huck,
President Utah Shared Access Alliance

The creation of the massive two million acre Grand Staircase-Escalante National Monument in Southern Utah by Presidential Proclamation on September 18, 1996, was a typical example of the underhanded tactics employed by the radical environmentalists in their endless effort to usurp our public lands.

Working in a secret, highly political process designed to wring additional votes from the environmental lobby, President Clinton's staff, cooperating with extremist Wilderness advocates, drew boundaries to fill in their regulatory void between the Glen Canyon National Recreation Area on the east, Capitol Reef National Park on the north, and Bryce Canyon National Park on the west. This sorry process completely subverted normal and statutory procedures designed to insure fairness and public participation.

Although there are still two pending legal actions challenging the legality of the monument, many millions of dollars have already been spent in establishing a bureaucracy to plan for future management. It's saddening to realize that taxpayers will be required to sacrifice huge sums each year to hyper-manage these durable lands that were doing just fine until the President decided he needed a few more votes.

After two years of effort, the planning team released the 423 page Draft Management Plan in November.

Because the Presidential Proclamation took the unprecedented step of naming the Bureau of Land Management rather than the National Park Service as the management entity, we harbored some small hope that the principles of multiple use and recreational diversity would be honored. Indeed, Utah Senator Bob Bennett, to the dismay of many, initially lauded the monument, saying that it offered opportunities for the development of additional access and recreation facilities.

Sadly, however, the reality of the Draft Management Plan shattered this illusion. It is unlikely that even the National Park Service could have produced a worse set of management alternatives.

Four of the five alternatives presented in the Draft will place severe restrictions on OHV access and recreation, ignoring the heritage, traditions, and legal rights associated with this use. Most of the land will become inaccessible to those who cannot travel by foot. It is obvious that the restriction of vehicular access is the major focus of the entire planning effort, since this is the headline issue addressed in each of the alternatives.

The plan envisions an "outdoor museum" with "scientific preservation" becoming the principle management objective. In essence, it seeks to remove nearly two million acres of public land from multiple use, reserving it for the exclusive use of the elite few.

The "preferred" alternative B will close more than 1,100 miles of roads, nearly all of which have RS-2477 status. It would ban all cross-country travel even though generations of open travel have produced no impacts that would disqualify this area for Wilderness designation according to the latest Utah Wilderness Coalition proposal. Vehicular travel would be allowed only on 818 miles of designated routes, of which 591 miles would be available to unlicensed vehicles.

> **"Four of the five alternatives presented in the Draft will place severe restrictions on OHV access and recreation."**

Alternatives C and D are even more extreme in their efforts to make the monument look like a National Park. They would totally ban the use of any unlicensed vehicles! Since ATV's cannot be licensed in most states, they are banned entirely. Dirt bikes would have to be street legalized. Naturally, the enviro's are pushing hard for alternative D, which would designate the vast majority of the land de facto Wilderness.

Alternative E is just a bit more liberal than B, designating 1,264 miles of vehicle travel routes, including 980 miles available to ATV/dirt motorcycles.

It is unfortunate that two year's effort on the part of 15 expensive public employees produced a plan so extreme that it has only one acceptable alternative: The No Action Alternative A.

This alternative will continue existing use and access patterns, which have had no negative impacts on this rugged and indestructible land of sand and stone. It respects the rights of diverse and multiple uses and allows all of our people the opportunity to explore and delight in this rugged and remote landscape. It allows for the continuation of the traditions and heritage of the local people who have lived on and exercised stewardship over this land for well over a hundred years. It is the only viable option the Draft Management Plan produced, yet it existed even before the first dollar was spent.

The public phase of the process has begun. The BLM has produced a plan and now it's your turn to participate in the process. We all have a stake in this, no matter where we live. The key to determining just how these two million acres will be managed is in your hands! If enough people speak up for alternative A, then it will be difficult for even the most biased managers to ignore. You can be sure that all the radical land closure groups will be getting their members to send in comments attacking Alternative A and pressing for Alternative D.

Accompanying this column is a sample letter supporting alternative A. If you want your voice to be heard, all you have to do is sign and mail this letter. Even better, if you have the time, write your own. If the planners see 10,000 of these sitting on their desks, Alternatives B through E will be DOA. That's a pretty good payback for the price of a stamp! The deadline for submission is Feb. 12, 1999, but don't wait until the last minute.

The effectiveness of your letter will be increased if you send a copy to: Sen. Bob Bennett, U.S. Senate, Washington, D.C. 20510 and Congressman Chris Cannon, US House of Representatives, Washington, D.C. 20515. ❖

Mr. Pete Wilkins
Grand Staircase-Escalante National Monument
337 South Main St., Suite 010
Cedar City, Utah • 84720

Dear Mr. Wilkins:

I am very disappointed with the Draft Management Plan/Draft Environmental Impact Statement for the Grand Staircase-Escalante National Monument.

When the Presidential Proclamation of September 18, 1996, assigned the Monument to the Bureau of Land Management, a rare opportunity arose for a more "user friendly" management environment. Sadly, it seems the planning team has chosen to ignore this mandate, producing a document more suited toward current trends in National Park management.

I believe that the public lands should be managed for public uses and should not be set aside to serve the agendas of special interest organizations. The lands of the National Monument have a long and rich tradition of multiple use and motorized recreational access. These rugged lands suffered no degradation through generations of use and there is no reason to believe they will in the future.

The Planning Team has produced a set of alternatives that are unacceptable to me and my family. Alternatives B through E would severely limit traditional and historic uses, in violation of the Presidential Proclamation.

Alternative A, the No Action Alternative, which would adopt the status quo and maintain current use and access patterns, solely meets the requirements of the law. All of the other alternatives violate the civil rights of most current and future users of these lands.

I therefore request that Alternative A be adopted as the management paradigm for the Monument.

Thank you.
<your name>

SNOWMOBILE TOURISM...

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Appendix B

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Shawnee Closures Prompt Lawsuit

It's been a long battle between recreational users and the United States Forest Service in the Shawnee National Forest, which consists of 280,000 acres located at the southern tip of Illinois. The forest is operating under the 1992 amended forest plan, which has shut out most recreational users from the 81 so-called "natural areas" (NAs) which were included in the plan.

Horseback riders were the first group affected when the forest service announced in early 1994 that equestrian use would be prohibited in the areas, even though horsemen were promised that existing user-created trails (used by them for decades) would become designated by the United States Forest Service (USFS) and allowed under the plan. The closures of the most scenic areas of Shawnee, which contain huge rock formations, tumbling streams, caves, 200 foot-high bluffs, and beautiful timber, put the midwestern trail ri[illegible] enthusiasts up-in-arms.

[illegible] year, riders from 20 states come to the Shawnee and trail riders spend $1.3 billion each year in the state. Responding to this outcery was US Congressman Glenn Poshard, in whose district much of Shawnee resides. He appointed a trail review committee in hopes of resolving the situation. The closures were delayed and the impact analysis of 10 of the "natural areas" were conducted with members of the USFS, the Illinois Department of Natural Resources (IDNR), the Illinois Nature Preserves Commission, the horse campground owners, the Sierra Club, the Regional Association of Concerned Environmentalists, and equestrian leaders. These walks were supposed to point out any endangered species and the horrific erosion sited by the environmentalists as the main reason to close these popular riding areas. However, no endangered species were sited and only minimal trail erosion was discovered.

Horsemen have for a longtime agreed that trail maintenance would solve the problem. But the USFS being pushed by the IDNR and radical local environme[illegible] groups contend that horses [illegible]ld be prohibited from these "natural areas" which total approximately 16,000 acres. Unfortunately, most of the horse campgrounds in Southern Illinois are located near these areas and the closure of the most scenic areas would severely impact the riding trails close to the campgrounds and the horse tourism coming to Southern Illinois. As many as 65% of the trails would be either closed or would sever the trails extending beyond the "natural areas." Horsemen agreed to the closure of 26 of the areas which had little horse use and the forest service lead them to believe that the others could be left open.

In January of 1997, Forest supervisor, Louise Odegaard announced that 40 "natural areas" would be closed immediately to mechanized and motorized vehicles, horses, rock climbing, camping and rappelling. She also announced that the remaining areas were being analyzed for future closings. The ATV-OHV's had been banned from the entire forest in September of 1995 as a result of a lawsuit brought against the forest service by the Sierra Club. The Illinois Audobon Society, and RACE to prohibit ATV's, oil leasing, timbering, and mining on forest service lands. These activities were prohibited in the forest until the forest service could complete necessary NEPA and impact studies on these uses. None of these studies have been completed and even though the forest plan calls for 286 miles of ATV trails, none were ever built.

Fearing that the same demise was soon to befall them, the horsemen, who had formed the Shawnee Trail Conservancy (STC) in 1994, decided to gear-up for a fight over their trails. They solicited the legal expertise of the Mountain States Legal Foundation in Denver, CO, who listened to their story and decided to help them. The legal ownership of the old county roads was a course of action, since most of the old roads are now horse trails, and in Illinois horses have road rights. The forest service has gated many of these old unmaintained roads and they claim ownership. The counties say, however, that these roads were never legally closed so they are county property.

Last year, the state of Illinois passed a law allowing the counties, at their discretion, to declare old roads to become multi-use recreational trails. This has ATV-OHV users excited since the outcome of the lawsuit brought by the Shawnee Trail Conservancy who were joined by the Illinois Federation of Outdoor Resources (IFOR), the Illinois Trail Riders, Inc., Horsemen's Council of Illinois, and the Southern Illinois Ranch and Campground Owners Association will affect them, as well. The Shawnee Trail Conservancy has been growing by leaps and bounds as hunters, horsemen, bikers, campers, ATV-OHV users are all joining together along with local business people who rely on recreational tourism for their livelihood. Shawnee Trail Conservancy now represents over 50,000 people.

The suit was filed in federal court in August of 1998, and should be heard this summer. For more information contact the Shawnee Trail Conservancy, PO Box 44, Eddyville, IL 62928 Bill Blackorby, President 618-672-4768. ❖

Spotlight On The Shawnee Trail Conservancy

The BlueRibbon Coalition (BRC) has a growing constituent of equestrians in its membership. The BRC is pleased to welcome one of its new member organizations, the Shawnee Trail Conservancy (STC).

Primarily an equestrian group, the STC is a group which has supported the shared-use concept from the beginning. Their membership is open to all types of recreationists.



Members of the Shawnee Trail Conservancy doing trail maintenance in the Shawnee National Forest.

WHAT IS THE SHAWNEE TRAIL CONSERVANCY?

MISSION: To ensure the Shawnee National Forest (SNF) remain open to the public for the use and enjoyment of the public who are the taxpayers and the true stewards of the government-owned land.

WHO WE ARE: A nonprofit corporation which advocates **multiple-use** of the Shawnee National Forest for recreational and sporting interests, yet is dedicated to preserving and protecting it's natural resources through proper trail maintenance, good trail signage, education of trail, camping, and hunting users to achieve a low environmental impact, and wise use management practices. We represent over 50,000 equestrians, hunters, ATV riders, bikers, hikers, campers, rock climbers, business people, professionals, retirees, and fishermen who love to enjoy the beauties of the Shawnee.

THE FACTS:

• The US Forest Service and radical environmentalists have decided to close approximately 16,000 acres of the most scenic areas of the SNF to equestrian use, campfires, camping, bikers, rock climbers, rappellers, and ATV riders.

• Since ATV's were banned 2 years ago, deer and turkey harvest has dropped considerably. In 1997, the number of deer harvested in Southern Illinois was down by 1,900 and permits were down by 5,000 hunters due to the inability of hunters to retrieve an animal via an ATV. Many hunters are not physically able to drag a 200 pound animal 2 or 3 miles out to the nearest road.

• Shawnee Trail Conservancy has united with four other organizations: the Illinois Trail Riders, Illinois Federation of Outdoor Resources (IFOR), Horsemen's Council of Illinois, and Southern Illinois Ranch and Campground Owners Assoc. in a lawsuit to reopen the old public roads (which the USFS has barricaded) and to prevent the proposed closure of the 41 remaining so-called "natural areas" and to reopen the 40 "natural areas" which were closed in January 1997.

• Shawnee Trail Conservancy DOES NOT seek to re-open old public roads which go across private land, only publicly owned land. For decades, these so-called "natural areas" were once privately owned farms, ranches, and homesteads. Now they are called pristine, sensitive, fragile, and supposedly home to endangered species of plants, mice, and bats.

• Local economy is in financial difficulty due to the bans and closures. Closure of the remaining 41 areas will even more severely impact these businesses, since the heart of the SNF will be off-limits.

• Radical environmentalists have been viewed tacking hundreds of lie-filled inflammatory flyers on trees throughout Shawnee trails and "natural areas." This trash degrades the forest's beauty and creates a litter-laden garbage dump as it blows around the forest landscape. Instead of trashing our forest, which is against the law, they should put their efforts into helping maintain trails. Forest officials are currently investigating this issue.

• Shawnee Trail Conservancy is a grass-roots organization and is NOT being financed by big oil companies, timbering interests, or Japanese ATV manufacturers. We need your Support and Contributions to all who come and enjoy the national forest. We must UNITE and fight TOGETHER! ❖

Appendix C

BRC & Northeast Snowmobilers Speak Out Against Land Grab

A Conference on the Northern Forest Stewardship Act

The St. Johnsbury, Vermont snowmobile trails of New England could be threatened if a land control measure being pushed by Vermont Senator Patrick Leahy (D-VT) is passed into law. BlueRibbon Coalition Executive Director Clark Collins and Vermont Association of Snow Travelers (VAST) Executive Director Bryant Watson shared a panel with George McNeill with the Sportsman's Alliance for the Vermont Environment on the subject of "RECREATIONAL CONCERNS WITH THE STEWARDSHIP ACT."

"The green advocacy groups (GAGs) pushing this initiative cannot be trusted," said Collins, who told of his experience attempting to work with a local Sierra Club leader. *"These groups will attempt to divide and conquer us one by one until they get these areas locked up as wilderness. Backcountry recreationists can be your allies in the battle when they realize that the GAGs ultimate objective is to eliminate them right along with the resource industries."*

VAST is concerned that years of cooperation with Vermont private land owners could be jeopardized if the Stewardship Act is enacted. *"We've been working with private landowners on our snowmobile trail system for many years,"* said Watson. *"We don't need federal agencies interfering with that relationship."*

New Hampshire Snowmobile Association Executive Director Jeff Lyons, who also attended the Conference, agrees that a federal land grab of this magnitude has the potential to cause similar problems in New Hampshire. New England snowmobilers have worked for years with local land owners to plot and maintain extensive snowmobile trail systems on private land in the rural areas of the east. The Stewardship Act, which would put much of this private land under federal control, is being pushed by anti recreation access groups in the Environmental Conflict Industry.

The Conference, hosted by the Associated Industries of Vermont and the American Land Rights Association, was apparently a serious threat to proponents of this eastern land grab. One of the speakers, Greg Sweetser with the Ski Maine Association said he had received a phone call from the Maine Audubon Society *"to inform him that they perceived some of the groups involved in the Conference as extreme"* implying that his participation could result in his being branded a radical. After years of dealing with Environmental Conflict Industry opposition to ski area expansions in Maine, that call only served to strengthen his interest in participating. *"Those in the environmental community say that tourism can replace the resource industries they are attempting to eliminate in our backcountry areas,"* said Sweetser, *"but then they oppose attempts to expand tourism facilities to accommodate increased visitors. The ski industry realizes they need to be a part of the multiple use team."*

"The Conference, hosted by the Associated Industries of Vermont and the American Land Rights Association, was apparently a serious threat to proponents of this eastern land grab."



Clark Collins points out VAST trail sign. *-photo supplied by Clark Collins*

The Conference agenda included many other national Wise Use speakers besides BRC's Collins - Ron Arnold with the Center for the Defense of Free Enterprise - Chuck Cushman with the League of Private Property Voters - Jim Burling with the Pacific Legal Foundation - Rob Gordon with the National Wilderness Institute - R.J. Smith with the Competitive Enterprise Institute - Frank Gladics with the Independent Forest Products Association - and Bruce Vincent with the Alliance for America.

The meeting provided an excellent opportunity for national Wise Use leaders to strengthen their ties with New England activists who are realizing that the green advocacy groups have plans for their areas too. Local speakers, in addition to VAST's Watson, included representatives of the Maine Ski Areas Association, Vermont Farm Bureau, New Hampshire Paper Workers' Union and a New York County Commissioner.



Snowmobile trail sign on private land. *-photo supplied by Clark Collins*

One of the speakers, Mike Waddell a Town Councilman in Gorham New Hampshire, explained that he came to New Hampshire on the Appalachian Trail, had been on staff with the Appalachian Mountain Club (AMC) and had always considered himself a hard core "environmentalist." After spending several hours over coffee with eastern Wise Use leader Leon Favreau (also from Gorham), he was a converted "Wise User" and proud of it. Wadell confirmed what many in the Wise Use movement already know, that groups like the AMC, the Sierra Club and others in the environmental conflict industry really have evolved into nothing more than hate groups.

The Northern Forests Stewardship Act proposes that Congress set aside 26 million acres of forest in Vermont, New Hampshire, Maine and upstate New York. In a letter explaining the threat of this proposal to Bob Voight of the Maine Conservation Rights Institute, Pacific Legal Foundation's James Burling says, *"In Section 2 Congress declares, among other things, that the 'forests in the region are rich in natural resources and values cherished by residents and visitors.' If I were the owner of any the land in this cherished 26 million acres I would be concerned. Whenever the government starts talking about the public 'cherishing' or otherwise coveting something owned by individuals, the inevitable result is that the public rather than the individual winds up owning the object of the affection."* In a state where so much recreation access is freely allowed by private property owners, this government intrusion into that cooperative relationship is likely to upset the apple cart.

Attendees heard how the Act's concrete provisions to funael federal tax dollars into the region for land acquisition and control coupled with vague promises of government economic assistance is an all to familiar approach that has been tried and has failed in other areas of the country. As William Sayre, of Associated Industries of Vermont noted, *"Federal programs and money are no substitute for a strong local economy."*

Ron Arnold, Executive Vice President of the Center for the Defense of Free Enterprise, told the conference that *"while government bureaucracy is a necessity to efficiently run a complex civilization, bureaucracy is prone to abuse."* This fact was made clear by the discouraging real life examples of dealing with federal agencies related by individuals such as Dave Cioffi from Hanover, New Hampshire and his three year odyssey with the Appalachian Trail Conference over the siting of a trail on his land. Cioffi just wanted the trail

Land Grab ..... continue from 13


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OHV-Highway Vehicle Volunteers Team With Southern California Edison To Clean Up The Desert

by Jack Raudy,
Consultant to the California Off-Highway Motor Vehicle Recreation Program

Despite cool weather and light rain, more than 60 off-highway vehicle volunteers and members of Southern California Edison recently teamed up for the 9th annual Earth Day conservation cleanup here in Stoddard Valley in the California desert.

According to Barbara Bell, of Phelan, one of the event organizers from the California Association of Four Wheel Drive Clubs, the volunteers spent the entire day hauling out more than 25 tons of garbage and six abandoned vehicles.

"Stoddard Valley is a very popular OHV recreation area managed by the Bureau of Land Management (BLM)," Bell said, "however, there are many other people who come out here just to dump their garbage or to get rid of an old car. Members of the off-highway community appreciate a clean environment as much as everyone else, and we feel very strongly about making positive contributions. Many of our past conservation projects have involved cleaning up areas not designated for OHV use."

In addition to the California Association of Four Wheel Drive and Southern California Edison volunteers, other representatives participated from the California Off Road Vehicle Coalition (CORVA) as well as a host of individuals who simply wanted to do their part for Earth Day. CORVA spokesman Raymond Davis has been involved in all nine of the OHV conservation projects. "I really enjoy cleaning up the desert. We have a lot of fun working on these projects."

"We could have done more with more people," said Mark Landis of Southern California Edison, "and there is still some cleaning up to do out there. We took a sizable bite out of what was a pretty severe eyesore in our desert."

Bell said that Southern California Edison provided several dump trucks, a skip loader and volunteers to haul off all the garbage, and vehicle and the BLM sponsored the lunch for the volunteer workers.

According to BLM's Steve Bonar, "These volunteers have really done a super job out here. We look forward to working with them again on future projects."

"I am very proud of all of the volunteers for their efforts to clean up Stoddard Valley," said Bell. "The first observance of Earth Day was 28 years ago with widespread recognition across our nation in the form of demonstrations. These days, many people are involved in performing conservation projects, but the numbers have dwindled from 28 years ago. Our annual conservation project is one of the many ways the off-highway community makes its contribution to a cleaner, better place for all of us to live."

Bell said she wasn't sure where next year's conservation project would be held, but she encouraged everyone involved with outdoor recreation to become involved in Earth Day and other conservation projects.

For more information on how to participate in the 1999 OHV conservation project, contact Barbara Bell at (760) 868-0926 or bbell@qnet.com. ❖



Off-Highway vehicle and Southern California Edison volunteers survey an old travel trailer found in Stoddard Valley, and discuss the best way to get rid of it.
–photo supplied

BR Editorials Conflicts ..... *continued from 3*

politely told him that we enjoyed it and thanked him for sharing it with us. It was then that Rainbow informed us that he viewed the use of motorized vehicles as a "crime against nature." Biting my tongue, I told Rainbow that he was welcome to his view, but that it was one that we obviously didn't share.

I resisted the temptation to remind Rainbow that the trail he was hiking on had been built in the late 60s using state OHV funds and was signed at both ends as the "Crestline Cycle Trail."

On the way back down the trail we encountered thirteen hikers and one mountain biker on the "Crestline Cycle Trail." Not until we reached the trailhead did we encounter any other motorcyclists on the trail. I've often compared motorized and non-motorized use levels on our local trail system. The "Crestline Cycle Trail" has consistently had more non-motorized users than any other trail in the area and none of the other trails, in this predominantly "multiple-use" system, are called "Cycle Trails."

Instead of recognizing this as clear evidence that non-motorized users aren't driven away by motorized, the FOE report uses statistics such as this (fourteen non-motorized to four motorized) to justify their claim that, *"Funding levels for motorized trails are too high and should be reduced and/or reallocated for non-motorized trails."* And they use this argument seeking to prevent OHV utilization of the Recreational Trails Program that is funded by off highway vehicle federal fuel taxes. Using FOEs reasoning, the "Crestline Cycle Trail" should be closed to motorized use because its use is predominantly non-motorized.

I gave up, years ago, trying to make any sense out of the arguments of the anti-OHV extremists. They make no sense, and trying to understand their logic will drive you crazy. I believe our best strategy is to point out that these groups, and the "Rainbows," who are influenced by them, are not "environmentalists;" they are just selfish and mean spirited. Their theory on protecting the environment is to eliminate everyone's impacts but their own. We just need to get more of our land managers and politicians to realize this, AND WE NEED TO STOP CALLING "THEM" ENVIRONMENTALISTS. ❖



Motorcyclists & hikers on the Crestline Cycle Trail
–photo supplied by author

Land Grab ..... *continued from 14*

located in a different route on his land than the site chosen by the National Park Service.

Bruce Vincent, President of the Alliance for America spoke of the impacts on his small hometown of Libby, Montana from a lawsuit induced effort by the federal government to reintroduce grizzly bears. *"It's no wonder that so-called environmentalists want to save areas in your states and mine, these are the 'last great places'. The problem is that the 'last great people' live there, and it seems to many that we in the rural, resource-based economy are simply in the way. We must get beyond the command and control environmental regulation mentality that places man outside of nature."* Vincent implored the audience to "get involved and craft local solutions."

Opposition to the NFSA is building. A coalition of recreation, labor, landowner, local officials, farm and forestry interests at the conference were encouraged that the Northern Vermont Development Association voted just prior to the Conference to formally oppose it. A proponent of the NFSA, Brendan Whittaker of Brunswick, childishly responded to news about opposition to his plans, saying, *"They aren't about to harm Vermont in any way. So there."* William Davies, with the NFSA support group the Northern Forest Lands Council,

"The environmental conflict industry is up to mischief everywhere."

was apprehended on his way home from that meeting and charged with DWI and possession of marijuana. It sounds like supporters of the NFSA might be unable to cope with organized opposition to it.

Unfortunately this eastern land grab has gained a lot of momentum in Congress. Leahy has convinced many other eastern legislators to support his proposal. Some are having reservations now and asking for field hearings in the affected areas, but no hearings have been held to date.

New Englanders are encouraged to contact their congressional delegations to express their opposition to the Northern Forest Stewardship Act land grab. Other recreationists concerned about it should call their legislators as well to ask that they not allow the proposal to move forward without field hearings in the affected areas. If you don't know the names or phone numbers of your Senators or Representative, call (202)224-3121, tell them where you live and they'll connect you.

Whether it be Wilderness proposals for federal lands in the west, or land grabs that threaten recreationist/landowner relations in the east, the environmental conflict industry is up to mischief everywhere. Their agenda is different, but their objective is always the same. PREVENT ANY HUMAN USE OR ENJOYMENT OF OUR NATURAL RESOURCES. Recreationists must stand with our natural resource industries and private property rights interests to defend our mutual objective of "Preserving our natural resources FOR the public instead of FROM the public." ❖

Appendix C page #2

Mr. HANSEN. Thank you, Mr. Collins. Questions from the panel. Ms. Chenoweth.

Mrs. CHENOWETH. Thank you, Mr. Chairman. I find after sitting through three panels and listening to the testimony, that I am baffled. I am baffled by the testimony that I hear primarily coming from the sportsmen and the arms and bullet manufacturers. I'm a little heartsick. Next week we're going to be taking on one of the biggest battles that this Congress has faced with regards to gun control and I guess I just always thought that you leave the dance with those that brought you.

There's going to be a lot of blood spilt and I think that we need to focus on the fact that access to the back country for hunting purposes or hunting for sportsmen, unless we fight these battles together, may not occur at all. And when we hear about—in testimony, when we hear about our American heritage, I've got to stop and think that our American heritage that our founding fathers envisioned for us envisioned more than just the ability to hunt and it envisioned the ability of people to be able to make a living from the land and be able to be free and to be able to make choices about where they want to live and raise their families and not be harassed by the Federal Government. That kind of freedom and liberty really was the heritage that our founding fathers wanted to leave us.

And when we talk about game I think of the situation in Idaho. I don't see a lot of no trespassing signs on our ranches. In fact, what I have seen, especially down in southern Idaho, is a partnership with our ranchers and the hunters. So long as they ask permission and so long as the rancher knows basically where the hunters plan on going, they'll help them out. And, in fact, in southern Idaho, the California big horn sheep has now prospered to the degree that we're now exporting California big horn sheep out of our herds in Idaho. It's a real success story because the farmers and the hunters and the fish and game formed a partnership without the Federal Government coming down on them mandating any kind of partnership. And it is a real success story.

I hear testimony today about elk herds and elk habitat and I can tell you that in my district in northern Idaho we used to have a blue ribbon elk herd that we used to compete with anybody for the quality, the size and the number of elk. And now that elk herd is almost nonexistent because of the roadless moratorium, because of lack of management in our Federal lands and because the elk habitat has been destroyed, literally destroyed. It's destroying the elk.

Furthermore, I'm hearing more and more incidences, while our hunters love to talk about the increase in the cougar population, we're hearing more and more incidences about human harm from cougars because we're not putting limits on how cougars are impacting our more populated areas, how they impact joggers and hikers and so forth.

The same thing is happening with wolves and bears that are being brought into Idaho by fish and wildlife service. The wolves and bears are impacting our elk herds. The wolves and bears are impacting our ranchers, and fear is growing about taking families in. Our mountain lions are increasing. And so this is the way this bill has been presented to us, that it's a hunters' bill.

But I've got to say that our governor, prior to the last governor, had to rely on the fact that private property provided the tax base for counties to be able to respond to hunters and hikers and people who were in the back country who got into distress. Our governor, who was kicked in the head with a mule, had to have the county search and rescue organization come in and rescue him. Search and rescue couldn't happen unless there was a tax base that was supported by in large part private property.

So, gentlemen, we've got to look at the whole picture because, unless we do, this in and of itself causes more division than it does unity. So I would ask you to revisit your thinking on that. Thank you very much, Mr. Chairman.

Mr. HANSEN. Thank you. Mr. Simpson.

Mr. SIMPSON. Well, thank you, Mr. Chairman. Along those same lines I guess that is some of the concern about the private property rights and the loss of the tax base but in this of course we increase the PILT funding which is supposed to make up for those Federal lands and so forth that will fund some of those county organizations, those county services that currently aren't being funded fully by the Federal Government. But I guess what kind of surprised me as I listened to the sportsmen's groups, they seem to support this because they believe it will increase access for their hunting activities, and motorized recreationists oppose it because they believe it will decrease the access and they're kind of in conflict there whether it will increase or decrease the access.

But I guess, Mr. Collins, in your testimony you talked about decreasing access. With the roadless moratorium that's been put on by the forest service and talks about increased wilderness and you know the fights we've had in Idaho over the last 20 years about wilderness and how we treat that land now. Do you have any ideas of how we might be able to address that so we increase access to and use of our national forests?

Mr. COLLINS. Well, Representative Simpson, you know that I've been promoting an alternative concept to wilderness designation and I really wasn't expecting to have the opportunity to talk about that here but by golly, I'll take it.

Mr. SIMPSON. That's why I asked the question.

Mr. COLLINS. Because it's our view that sportsmen, the hunters and fishermen and primarily motorized recreationists that we represent should be working together on an alternative to wilderness designation that doesn't involve locking the majority of recreationists out of these lands that are so special to us, and we've been promoting that alternative under the name of back country recreation area designation as a proposal. We're attempting to gain some traction with that idea and it's our view that all types of recreationists can work together to share the back country areas that we love so much.

I reference the nonmotorized interest groups that are involved in our organization and the equestrians and the mountain bikers are very interested in this idea. The mountain bikers especially because mountain biking is prohibited in wilderness areas, so they are automatically excluded from wilderness areas. A fact that a lot of mountain bikers aren't aware of, quite frankly. But that's our idea of a way that we could work together.

Basically on this Land and Water Conservation Fund, getting back to our concerns with it, it's our concern that giving the Federal Government a checkbook, more money to purchase Federal land, is not going to help promote public access to these Federal lands because we're having problems with the park service, with the BLM, with the forest service and the roadless moratorium. Right now it seems that our Federal agencies are bent on restricting, rather than promoting, recreation access to the lands under their control. So we think that this is an idea that can address that problem.

Mr. SIMPSON. I think that from your testimony where you talked about some of your colleagues that used snow machines and so forth in the east where they don't have public lands nearly to the extent they use them on private lands and so forth, that even the provision of a no net gain policy in states that had, I don't know, pick a number, 25 percent Federal lands, would not really make this bill any better in terms of what they're concerned about then.

Mr. COLLINS. Well, in the east, like I mentioned, the snowmobilers back there have cooperative agreements with the land owners. The snowmobile trails in the eastern states are almost entirely on private land and the private land owners in the east are very concerned about the threat of this Northern Forest Stewardship Act and our recreationists back there are working in concert with those folks to protect the relationship that they've got with private land owners. Now I know we've got some situations out west where some people do post land, do post their land to keep sportsmen off of their land and I would like to see us work toward building more cooperation with these private land owners, and these public land grab proposals don't further that objective in my view. Thank you.

Mr. HANSEN. Thank you. Mr. Cannon.

Mr. CANNON. Thank you. I would like to first of all thank this panel for coming today. It's been very enlightening and I appreciate your different views, particularly of course Mr. Hyde, who is from my district. And Mr. Foutz, you have a great store in Provo. I love your store. Have you noticed an increase in gun sales since the Columbine incident and the flurry of activity there?

Mr. FOUTZ. Yes, we have. Unfortunately, I think that's media driven. There is a sense that there's going to be some restriction in that area and anytime you do that there causes a surge in sales.

Mr. CANNON. How much of a surge have you seen?

Mr. FOUTZ. Twenty percent.

Mr. CANNON. Do you personally know how long it takes to do a Brady Bill review.

Mr. FOUTZ. Background check?

Mr. CANNON. Background check.

Mr. FOUTZ. BCI, about 15 minutes.

Mr. CANNON. Is that from the time the person hands you the document he's filled out to the time you've finished the phone call?

Mr. FOUTZ. No. That would actually be actually trying to get through to BCI, getting somebody on the phone and then them processing the paperwork and running it through the bureaus.

Mr. CANNON. I have a hard time getting that out of BATF the other day. I appreciate that fact. It doesn't have a lot to do with this panel but I think it's significant for the current debate.

Mr. FOUTZ. If I may add, for the law abiding citizen who comes in to purchase a gun, too, is that they've restricted us to sales of guns up to 7 o'clock. And in the retail business that puts a great constraint on us that they don't kind of follow our patterns of retail.

Mr. CANNON. Seven o'clock p.m., right?

Mr. FOUTZ. Seven o'clock p.m.

Mr. CANNON. Well, that's actually significant to know. We're working on that bill. I'm involved in that. Thank you very much. Mr. Chairman, I yield back the balance of my time.

Mr. HANSEN. Thank you. You mean the State of Utah has a law that says you can't buy a firearm after 7 p.m.?

Mr. FOUTZ. We cannot release possession of that firearm without a background check, so ownership cannot be taken of that individual who purchases that firearm until that background check has been done. So they limit us as to when they can take ownership of that gun.

Mr. HANSEN. Do you have the technology to do an instant check?

Mr. FOUTZ. Not currently, no. And I'm not sure where the law states whether we could actually access that information.

Mr. HANSEN. So if someone walks in to buy a firearm at 7:05, we fill out the sheet, pay the money, we have a meeting of the minds, we pick up the firearm the next day; is that right?

Mr. FOUTZ. Yeah. If that's convenient for you.

Mr. HANSEN. That is if we pass.

Mr. SIMPSON. I think that we can maybe work on that and resolve that in this current bill. That's not reasonable.

Mr. HANSEN. A lot of people don't realize but Federal law does superimpose itself on state laws. Let me just say something, if I may. There is no piece of legislation that has ever gone through with any controversy at all that doesn't end up in some compromise. It just doesn't happen that way. And so compromise, whether you agree with that or not, happens to be the way it's done in city councils, county commission and state legislative bodies and the Federal Congress. So if you want to kill a bill you can go out (inaudible) or you can make it into a gummer and that is when you take out one part after another until there's nothing left and it just kind of falls through the cracks, or you can improve the bill so it becomes to be a rather good piece of legislation.

With that criteria, if any of you have things you think should be taken in, taken out, improve the bill, kill the bill, that's the great American way. And so I would appreciate hearing from you, as I'm sure Mr. Young would and I'm sure members of this Committee would.

Mr. Collins, you brought up some very interesting things. Maybe you have amendments to the bill that you think would make it better that you would like to submit to the Committee. In other words, everybody in America can stand up and say this is bad, bad, bad and maybe we agree. The other side of the coin, what really sells heavy with us is solutions. Section 4, subheading A is bad. We can make it better by the following language. Many times it is better.

I see people in this room who have done that before and passed pieces of legislation.

So I can assure you this piece of legislation will probably not go through the way it is written now, if it goes through at all. So if you have some solutions, let's have the solutions. Or, if you've just got to get something off your chest, write us a letter and chew us all out, tell us how dumb, stupid we are and that's fine, too. I get many of those everyday as every Member of Congress does. That's just part of our job.

On the other side of my coin, I really enjoy getting something from somebody who has really spent some time saying I don't like this for the following reasons. You'd be surprised if you'd watch Congress in committees where it's really all done anyway, you will be surprised to see that same congressman may pick it up and say—and use you verbatim. Of course members of the Congress always take credit for the good things.

So with that said, we'll excuse this panel unless someone has additional questions. We'll excuse this panel and turn to our last panel, which is Mr. Christopher F. Robinson, the Ensign Group, Salt Lake—no, excuse me, Ensign Group L.C., Salt Lake City, Utah; Ms. Wendy Fisher, Utah Open Lands, Salt Lake City, Utah; Mr. Frank Priestley, president of Idaho Farm Bureau Federation, Pocatello, Idaho; and Karen Henry, Wyoming Farm Bureau, Robertson, Wyoming. We welcome these folks. Mr. Robinson, we'll start with you, sir. You all know the rules, five minutes.

STATEMENT OF CHRISTOPHER F. ROBINSON, ENSIGN GROUP, L.C, SALT LAKE CITY, UTAH

Mr. ROBINSON. Thank you, Mr. Chairman. I'm Christopher Robinson and appreciate the time that you members of the Committee and the chairman have given us today. I'm here wearing several hats. I'm president of two ranching companies that operate ranches in Utah, Idaho and Wyoming that encompass a couple hundred thousand acres of (inaudible) land and also we are permittees on probably another 700,000 acres of public land. I'm also a real estate developer, mainly residential, and I'm appearing today as a member of the board of trustees and executive committee of the Utah Chapter of Nature Conservancy. So I'm here in those capacities.

I'm also involved in land conservation and open space programs with Utah Open Lands, which is what Ms. Fisher is the chairwoman of and also a local nonprofit known as Swaner Memorial Park Foundation which is trying to preserve a piece of meadow up in Summit County, Utah.

The Nature Conservancy is an international organization, nonprofit, but it has as its mission to preserve the plants, animals and natural communities that represents diversity of life on earth by protecting the lands and waters they need to survive. Nationally we have 900,000 members and 1,500 corporate members and have chapters in all 50 states and 17 nations internationally and manage more than 1,600 nature preserves and are the world's largest private system of nature sanctuaries. In the state of the Utah there are about 7,600 members and we have done about 90 different projects, conserving about 800,000 acres within the state.

We think that this is a historic opportunity where different members of the House and the Senate have gotten together in proposing different pieces of legislation all dealing with the same issue basically, the Land and Water Conservation Fund. And in my involvement as a private land owner and rancher, and also with these nonprofit organizations that I've listed, we've spent a lot of effort trying to raise money to protect open space and to do other things to enhance wildlife.

For instance, in Idaho, where these two honorable representatives are from, we have ranches in Bannock and Cassia County where my family has worked with EPA and Idaho game and fish to preserve—to restore a portion of Marsh Creek. But all of those things cost money and so a lot of nonprofits are doing their part and private citizens are doing their part and many states and local governments are trying to do their part.

Last year there were some 124 different initiatives of one form or another throughout the nation and of those, 84 percent passed, raising some $5 billion for conservation. This Land and Wildlife Conservation Fund could represent and does represent an important part of the Federal Government's contribution to preserving our national heritage. One of the nice things that I like about it is it's taking nonrenewable resources and investing those monies in things that are of long-term benefit and a legacy. Specifically we submitted into the record the Nature Conservancy's statement on these two pieces of legislation and I won't belabor that.

There are three issues that I'd like to highlight. One is the Land and Water Conservation Fund hopefully will be fully and permanently funded. Second one is that hopefully there will be provisions that provide for private land owner incentives to preserve habitat and open space and especially with reference to wildlife. And then the third element is that a lot of emphasis is always placed on game species and one of the problems is there is lots of biodiversity that never winds up in someone's sights or on the end of someone's hook.

And we would like to make sure that money from this fund winds up going into nongame programs and believe that rather than seeing more species placed on the endangered list, that a more prudent way to go is to encourage land owners and public to keep them off the list by preserving their habitat. And I appreciate your time and would entertain any questions when the others are through.

Mr. HANSEN. Thank you, Mr. Robinson. Wendy Fisher, the floor is yours.

STATEMENT OF WENDY FISHER, UTAH OPEN LANDS, SALT LAKE CITY, UTAH

Ms. FISHER. I appreciate you all coming here to hear locally what's going on and how this bill and the potential passage of this bill can affect us as organizations and as citizens. I have been the Executive Director of Utah Open Lands first as a—well, actually I started out as a volunteer over nine years ago and then as a paid executive director for the organization.

As a 501-C-3 public charity, Utah Open Lands really gets our mandate from the public and from land owners. We have saved

over 7,500 acres of land throughout the state through the voluntary donation. In other words, that's donation of conservation easements from land owners to our organization. I'm personally aware of and understand why our organization has been successful but it's not as the executive director of Utah's lands (inaudible) part of a family ranch, family farm that I live on.

I currently live on a family farm in Oakley and in the past years, perhaps due to the Oakley Rodeo or perhaps due to the protected culinary water source that is under a conservation easement or maybe the riparian protected corridor that runs through the city, the property that's under family ownership has increased tenfold in the last five years. If my parents were to pass away, heaven forbid, tomorrow, I wouldn't be able to inherit that piece of property. We would have to sell it for the estate tax purposes.

This is a situation that our organization sees in several instances with land owners. And one of the things our organization firmly believes is that if the community is interested in protecting open space and feels that is a part of their quality of life and if the land owner is willing and interested in preserving that land, that we should be able to come to a willing buyer/willing seller arrangement but oftentimes, as Mr. Robinson pointed out, it's very hard for local nonprofit organizations to raise all of the money on our own.

I will say that as a nonprofit organization, we oftentimes do know what it is that the communities are interested in preserving and we are oftentimes in touch with the struggle that the land owners have. I think you might consider that in every county and every city throughout our nation there are land planning firms, attorneys and professionals who wish to exercise their right to develop the land and that's a great thing. There are incentives for developing, there is land and infrastructure consisting of roads, sewer and schools which support land development.

And equally important to a community's quality of life and its economic vitalty, as we are finding in the State of Utah, are its farm lands, wildlife habitat and its open spaces, and yet there are very few communities throughout the nation where the infrastructure and incentives are available to individuals interested in exercising the right to preserve their land. Aside from limiting income tax benefits there are limited benefits available to land owners who choose to preserve their land and this choice is a choice which benefits not just the land owners but the community and the quality of lives they have and for future generations.

I think that the Land and Water Conservation Fund and funding provided can go a long way in equaling some of that playing field when it comes to individual communities and individual land owners so that we can have both of those private property rights exercised. That's the extent of my comments today. Thank you.

Mr. HANSEN. Thank you very much.

[The prepared statement of Ms. Fisher follows:]



US House of Representatives
Committee on Resources
Washington, DC 20515

June 12, 1999

Dear Members of the Committee on Resources,

There will never be enough conservation dollars to purchase all of the lands in need of permanent preservation. For nine years, Utah Open Lands, Utah's statewide land trust, has assisted landowners in the permanent preservation of their family lands through the use of conservation easements. Under an average annual budget of $100,000 Utah Open Lands, has preserved over $16 million worth of property, demonstrating the leveraging possible through the use of conservation easements.

Ninety percent of the conservation easements Utah Open Lands holds have been voluntary donations by landowners whose desire to preserve the land outweighs the financial incentive to sell their land for development. These individuals love their land and want to preserve a family legacy. For many landowners, before they were aware of conservation easements, they were facing estate tax consequences, exacerbated by sky rocketing real estate values, which would have forced the sale of the family farm or ranch just to pay the taxes. In these instances, landowners who want to exercise their private property right to preserve their family treasure may not have had that ability.

In every county throughout the nation, there are land planning firms, attorneys and professionals who can aid landowners who wish to exercise their right to develop the land. There are incentives for developing the land and an infrastructure consisting of roads, sewer and schools which support land development. Equally important to a community's quality of life is its farm lands, wildlife habitat and open spaces. And yet, there are very few communities throughout the nation, where the infrastructure and incentives are available to the individual interested in exercising their private property right to preserve their land. Aside from limited income tax benefits, there are limited benefits available to landowners who chooses to preserve their land, a choice, which benefits not only benefits

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the landowners but their community's quality lifestyle for present and future generations.

Should there be incentives for landowners to preserve their lands? Should we protect our farm lands and future sources of food? Or should we allow market forces to prevail? Land and Water Conservation Fund dollars can begin to level the playing field. The following sheets detail land protection projects completed bt Utah Open Lands over the past nine years, demonstrating the value of conservation easements and the need for continued funding.

Most Respectfully,

Wendy E Fisher
Executive Director

Vita

Wendy Fisher received a bachelors degree from Principia College in 1991. She has worked as the Executive Director of Utah Open Lands Conservation Association (formerly the Summit Land Conservation Association) since its inception in 1990.

UTAH OPEN LANDS

LAND CONSERVATION ACCOMPLISHMENTS

With the help of many supporters, known as our land stewards, Utah Open Lands (UOL) has successfully completed eleven land protection projects to date, bringing the total acres protected by conservation easements to 7,255 acres. We wanted to briefly share with you the important impact these projects have on Utah's landscapes, communities and future generations.

Willow Ranch Preserve
Acreage: 11 acres
Location: Summit County
Date Completed: 1991
Description: The protection of eleven acres, located along the entry corridor to Park City, was UOL's first conservation easement donation. The project involved the cooperation of three entities, with seemingly opposing views, which provided an innovative solution to a key community asset. The Willow Ranch donation and city purchase is an example of how, through working together, private and public agencies can provide preservation solutions.

John D. Anderson Memorial Wildlife Preserve
Acreage: 200 acres
Location: Summit County
Date Completed: 1994
Description: Pinion Canyon's breath taking relict Pinion Juniper and White Fir forest communities are second, only, to the three pure springs it houses for the town of Oakley. When it became apparent that substantial development in the area could threaten this pure watershed for the town and destroy the habitat and unique beauty of the canyon, UOL stepped in to help the town protect forever this Canyon and its varied resources. Today, through the donation of Bruce and Jan Manning the Canyon serves as a wildlife preserve and protects Oakley's culinary water supply.

Weber River Preserve
Acreage: 30 acres
Location: Summit County
Date Completed: 1995
Description: Working closely with the Town of Oakley and Developer Grant O'Driscoll, Utah Open Lands protected a swath of land along the banks of the Weber River. This piece is just the first in a contiguous corridor which will provide a quality recreational and open land amenity for the citizens of Summit County and tourist who come to this destination county.

Swaner Memorial Park
Acreage: 350 acres
Location: Summit County

Date Completed: 1995, 1996
Description: The conservation of Parley's Meadow was one of Utah Open Lands's earliest and most gratifying successes. Working in tandem with the Swaner Family, Utah Open Lands currently holds a conservation easement on 350 acres of what will eventually be a 680-acre wetland park saved for wildlife and public use providing an island of nature amidst a swelling sea of development in the greater Park City area.

Snake Creek Canyon
Acreage: 959 acres
Location: Wasatch County
Date Completed: 1995, 1996, 1998
Description: Snake Creek is a canyon prized for its wildlife (mainly deer, elk, and moose) as well as for the vital, clean water it provides to the communities of Heber City and Salt Lake City. In 1995, some 758 acres of the canyon were preserved through an innovative partnership among private and public interests. UOL, the Snake Creek Preservation Society, the Nature Conservancy and the Utah Division of State Parks and Recreation completed a cooperative agreement to purchase Snake Creek Canyon, open it to the public and preserve it in perpetuity.

Encouragingly, efforts to save Snake Creek Canyon have inspired additional preservation initiatives and new partnerships in the area. At the end of 1996, a landowner from Seattle, Washington agreed to protect a dramatic alpine meadow encompassing 92 acres, an additional critical piece to preserving the entire Snake Creek Canyon.

This past November, 1998, UOL, with the assistance of the Snake Creek Preservation Society, acquired the 109-acre Big Four Mining Company parcel. The Big Four property is a critical parcel in the canyon with respect to recreational access to the upper canyon and wildlife conservation. It is also the last accessible "lot of record" in the upper canyon with significant development potential. The purchase was the final block necessary to secure the canyon's wildlife habitat, scenic grandeur, and precious watershed value for generations to come. UOL purchased and then sold to Utah State Parks - 54 acres, U.S. Forest Service - 35 acres, and Snake Creek Preservation Society - 20 acres, with conservation easements on the Utah State Parks and Snake Creek Preservation Society parcels being granted to UOL. UOL will hold the conservation easements to all the canyon's lands protecting these treasured acres forever. What is more, the lands will be incorporated into Wasatch State Park under the management of Utah's Division of State Parks and Recreation opening these lands to all resident of Utah.

The Gene and Deane Wheadon Farmland Preserve
Acreage: 75 acres
Location: Salt Lake County
Date Completed: 1997
Description: For generations, agriculture has been the mainstay of many Utah communities. During recent years, however, fruit orchards and alfalfa fields have given way repeatedly to shopping centers and sprawling residential development. In fact, Utah's prime farmlands are disappearing at a rate of two acres per day.

Fortunately, there are landowners like Gene Wheadon of Draper who have the vision and passion to buck that trend. Gene Wheadon could have sold the development rights to his 75-acres parcel for a whopping $ 3 million. Instead, he chose to leave his farm as an open land legacy for his family, the citizens of Draper, and the state of Utah.

Redford Family Nature and Wildlife Preserve

Acreage: 860 acres
Location: Utah County
Date Completed: 1997
Description: Over 850 acres of critical wildlife habitat, vital watershed and undisturbed alpine meadows have been protected in perpetuity under a permanent conservation easement donated to Utah Open Lands by Robert Redford and his family. Situated above Sundance property in Northfork Canyon, the dramatic canyon property is seen by scores of residents, and national and international visitors as they drive up Utah's Alpine Scenic Byway.

Wolf Creek Ranch Reserve
Acreage: 1,600 acres
Location: Wasatch County
Date Completed: 1998
Description: Last August, 1998 UOL signed a conservation easement on 1,600 acres of an historic working ranch in Heber Valley which will forever preserve critical birthing grounds and pristine habitat for elk, deer and other wildlife. This property could have faced extreme development as it is adjacent to a 1-unit- per-acre subdivision of second homes now turned primary residences. This 1,600 acres is part of a larger 13,000-acre ranch that UOL is continuing to work with the landowners to preserve the remainder of the ranch. The project has been divided into three phases with Phase I protected in 1998 and Phases II and III slated for protection in 1999 and 2000. A complete description of the project is given below under the Current Protection Project section and included in our Historic Farms and Ranches Campaign.

Mountain Island Ranch
Acreage: 3,000 acres
Location: Grand County
Date Completed: 1998
Description: On December 11th, 1998, Utah Open Lands accepted six separate conservation easements completing the preservation of Mountain Island Ranch -- the only private inholding in an area known as the Dolores Triangle. In partnership with the Mesa County Land Conservancy of Colorado, the entire 32,000-acre ranch spanning across Utah and Colorado is forever safeguarded from development. The ranch maintains a healthy cattle and buffalo herd and also holds grazing leases on roughly 100,000 acres of BLM ground. The landowner's intent is to maintain the property as a working ranch, maintaining its historical and cultural ranching heritage, while preserving critical wildlife habitat, including one of the state's only four known Bald Eagle nesting sites, a heron rookery, and sensitive riparian areas that are home to the endangered humpback chub, Colorado Squawfish and Razorback and Bony-tailed

chubs. Similar in magnitude to the Dugout Ranch, the preservation of the Mountain Island Ranch stands as beacon to other landowners as to the value of conservation organizations.

Oakley Scenic Preserve
Acreage: 80 acres
Location: Summit County
Date Completed: 1998
Description: In December, 1998, UOL accepted a conservation easement on 80 acres of agricultural and scenic lands near the town of Oakley in Summit County. This project has provided food for as many landowning families in rural Utah contemplate the onslaught of land development versus the preservation of family, cultural, and wildlife heritage.

Boulder Mountain Ranch Reserve
Acreage: 80 acres
Location: Garfield County
Date Completed: 1998
Description: At the close of 1998, UOL accepted a conservation easement protecting 80 acres of characteristic desert lands located in Boulder near the National Monument and the Dixie National Forest. Many more landowners in the area are lined up ready to protect their lands from the tremendous development pressures facing this region of the state. Utah Open Lands is in tentative negotiations for the preservation of many key parcels.

Quarry Mountain Ranch Preserve
Acreage: 40
Location: Summit County
Date Completed: 1999
Description: In February, Utah Open Lands signed a conservation easement on 40 acres of ranch land in Summit County. The property, located along Old Ranch Road just outside of Park City, offers tremendous scenic value as well as providing important wildlife habitat in an area that is under intense development pressures. This project is indeed a demonstration of the significance of protecting open space amid urbanizing landscapes.

STATEMENT OF FRANK PRIESTLEY, PRESIDENT OF IDAHO FARM BUREAU FEDERATION, POCATELLO, IDAHO

Mr. HANSEN. Mr. Priestley.

Mr. PRIESTLEY. Chairman Hansen and the Committee, I'm Frank Priestley, president of the Idaho Farm Bureau. We have about 49,000 member families in our organization and it's a privilege for me to represent them today. Also it's indeed my honor to recognize Idaho's own congressman, Helen Chenoweth, who has been a very strong fighter in the nation for property rights and we appreciate all that she does to help us. And our newly elected representative, Mike Simpson, it's good to have you with us here and good to be here. We appreciate you bringing this to the west.

H.R. 701, the Conservation Reinvestment Act of 1999 has been extensively reviewed and extensively discussed by the Idaho Farm Bureau Federation and we find that the Act is in basic conflict with the Idaho Farm Bureau Policy No. 69 which states, "We support no net loss of private property. We urge enactment of legislation to require prior legislative approval for any Federal land acquisition on a parcel-by-parcel basis."

Idaho as a public land state is over 66 percent owned by Federal Government. Most western states have over 50 percent of their land owned by the Federal Government and this leaves very little private land in our counties.

These counties rely heavily upon the natural resources to sustain jobs and families. But with the decrease of mining, logging and grazing that has been pushed by the Clinton Administration, many counties are finding themselves without the financial resources to adequately support their infrastructure needs.

H.R. 701 would compound this problem for the bill authorizes $378 million for the Federal land acquisition which would remove more private land from the tax rolls as well as $378 million per year for state acquisition of private property.

In addition, our Policy No. 23 states, "We recommend that a fee in lieu of taxes be assessed on all lands removed from tax rolls by state or Federal agency ownership. We favor an annual fee equivalent on local private property tax on land. We recommend that these fees be tied to the cost of living index."

H.R. 701 appropriates approximately $65 million in interest payments to PILT. However, in Idaho and most of the western states with the drop in logging, mining and grazing revenues and with the PILT payments never being fully funded, county revenues are decreasing dramatically. Sixty five million dollars when accompanied by purchases of vast tracts of new lands cannot possibly compensate for the loss of revenue and this will put even more pressure on western states and counties.

If the Federal Government is going to continue to be the west's largest landlord, then they must pay their fair share of the county infrastructure needs. The bill ends the current practice of condemnation of private land by the Federal Government for land and water conservation purposes and limits acquisition to a willing seller. Certainly in the past this did not occur and the government used the fund acquire vast tracts of land. This section of the bill could prevent the wholesale purchase of private land but we feel that the wording must be tighter to assure that the willing sellers

are not forced into the sale. One only need look around to the happenings in the west to see that ranchers and farmers are under constant pressure to give up their holdings to the Federal Government and willingness to sell oftentimes comes after years of pressure and sometimes abuse at the hands of Federal bureaucrats.

Even states are not exempt from this pressure. For right here in Utah the Grand Staircase Escalante was created over the objections of the state. If states cannot resist these pressures, then how could an individual resist them, too? We are not comfortable with the provisions of the bill that bypasses Congressional authority. We have recognized the need for local jurisdictions to have a permanent source of dollars for assistance grants to create parks, open spaces and recreational facilities but we also recognize that the Congressional appropriation process holds the Federal bureaucracy in check and permanent funding without Congressional oversight bothers us.

We would recommend this section be modified to give Congress appropriation authority over most of the funding. In addition, without Congressional appropriation this bill becomes almost a billion dollars a year entitlement which is off budget and certainly complicates the efforts to balance the Federal budget. Since these monies now go into the treasury, a study should be conducted to determine the source of replacement dollars for these withdrawals.

This bill dictates that the Federal agencies be considered partners with local units of government when land use planning decisions occur. This is totally unacceptable to us for it will lead to Federal interference with local government and Federal domination of land use decisions.

The Idaho Farm Bureau is not comfortable with any bill that would allow the Federal Government to acquire more private land since the Federal Government already owns 50 percent of the west and, as I stated, 66 percent of the state of Idaho.

We do note with a certain amount of pleasure that this bill has as its basis the principle of willing buyer and willing seller. This concept is supported by Farm Bureau policy and it is good to see it is becoming part of Congressional Federal land management bills. We recognize that in some national parks there are still private inholders who have been waiting for funds to buy them out. We have no objections to the purchase of these existing inholder properties if the seller is willing. We would strongly oppose any other purchase of private property by Federal agencies in the west. We feel the current exchange policy keeps a policy of no net gain of Federal public land in effect. The Idaho Farm Bureau strongly supports this concept.

In closing, Mr. Chairman, I want to once again thank the Committee for allowing the Idaho Farm Bureau to express our views on H.R. 701. We recognize that the local government is strapped in providing parks and recreation for the citizens but we feel that H.R. 701 goes so far in expanding Federal and state land acquisition. We feel local government needs are almost left out. We don't object to the dollars being used for enhancing urban quality of life but in the west, Federal Government as the major land owner already dominates. It cannot manage the lands that it currently has in its inventory and we must adamantly oppose any new additions.

Mr. HANSEN. Thank you, Mr. Priestley.
[The prepared statement of Mr. Priestley follows:]

STATEMENT OF FRANK PRIESTLEY, PRESIDENT, IDAHO FARM BUREAU FEDERATION

Chairman Young and Members of the Committee:

I am Mr. Frank Priestley, President of the 49,000 member Idaho Farm Bureau Federation. It is indeed a pleasure for me to appear before the House Resource Committee to discuss H.R. 701 and it is indeed an honor for me to recognize Idaho's own Congressman Helen Chenoweth who is known and respected by us and this great nation as a champion of private property rights and a friend of agriculture. We want to also thank Congressman Jim Hansen for bringing this hearing to the West as well as you Committee members who have taken time from your busy schedules to attend this hearing. The Idaho Farm Bureau Federation thanks you for allowing us to enter our comments on H.R. 701 into the official record.

H.R. 701, the "Conservation and Reinvestment Act of 1999" has been extensively reviewed and extensively discussed by the Idaho Farm Bureau Federation and we find the Act in basic conflict with Idaho Farm Bureau Policy Number 69 which states: "We support no net loss of private property. We urge enactment of legislation to require prior legislative approval for any Federal land acquisition on a parcel by parcel basis."

Idaho, as a public land state, is over 66 percent owned by the Federal Government. Most western states have over 50 percent of their land owned by the Federal Government and this leaves very little private land in many counties. These counties rely heavily upon the natural resource industries to sustain jobs and families, but with the decrease in mining, logging and grazing that has been pushed by the Clinton Administration, many counties are finding themselves without the financial resources to adequately support their infrastructure needs. H.R. 701 would compound this problem, for the bill authorizes $378 million for Federal land acquisition which would remove more private land from the tax rolls as well as $378 million per year for state acquisition of private property.

In addition, Idaho Farm Bureau Policy Number 23 states "We recommend that a fee in lieu of taxes be assessed on all lands removed from tax rolls by state or Federal agency ownership. We favor an annual fee equivalent to local private property tax on land. We recommend that these fees be tied to the cost of living index."

H.R. 701 appropriates approximately $65 million in interest payments to PILT, however in Idaho and most of the Western United States, with the drop in logging, mining and grazing revenues and with PILT payments never being fully funded, county revenues are decreasing dramatically. Sixty five million dollars, when accompanied by purchases of vast tracts of new lands cannot possibly compensate for the loss of revenue and this will put even more pressure on western states and counties. If the Federal Government is going to continue to be the west's largest landlord, they must pay their fair share of the county infrastructure needs.

The bill ends the current practice of condemnation of private land by the Federal Government for land and water conservation purchases and limits acquisition to a willing seller. Certainly, in the past this did not occur and the government used the fund to acquire vast tracts of land. This section of the bill could prevent the wholesale purchase of private land, but we feel the wording must be much tighter to assure that willing sellers are not coerced into the sale. One need only look around at the happenings in the west to see that ranchers and farmers are under constant pressure to give up their holdings to the Federal Government and willingness to sell oftentimes comes after years of pressure and sometimes, abuse, at the hands of Federal bureaucrats. Even states are not exempt from this pressure, for right here in Utah the Grande Staircase Escalante was created over the objections of the State. If states cannot resist this pressure, how could an individual resist such pressure!

We are not comfortable with the provisions of the bill that bypasses Congressional appropriation authority. We recognize the need of local jurisdictions to have a permanent source of dollars for assistance grants for creating parks, open spaces and recreational facilities, but we also recognize that Congressional appropriation holds the Federal bureaucracy in check and permanent funding without Congressional oversight bothers us. We would recommend this section be modified to give Congress appropriation authority over most of the funding. In addition without Congressional appropriation this bill becomes a nearly $1 Billion/year entitlement which is off budget and certainly complicates efforts to balance the Federal budget. Since these monies now go into the treasury a study should be conducted to determine the source of replacement monies to take up the $1 billion/year withdrawal.

This bill dictates that Federal agencies be considered partners with local units of government when land use planning decisions occur. This is totally unacceptable to

us for it will lead to Federal interference with local government and Federal domination of land use decisions.

The Idaho Farm Bureau Federation is not comfortable with any bill that will allow for more Federal acquisition of private land since the Federal Government already owns almost 50 percent of the west, and as stated before, 66 percent of the State of Idaho. We do note with a certain amount of pleasure that this bill has as its basis the principle of a willing buyer and seller creating an agreement. This concept is supported by Farm Bureau policy and it is good to see it is becoming a part of Congressional management bills. We recognize that in some national parks there are still private inholders that have been waiting for funds to buy them out and we have no objections to the purchase of these existing inholdings if the seller is willing. We would strongly oppose any other purchases of private property by Federal agencies in the west, for we feel the way it is now handled on an exchange basis keeps the no net gain of Federal land policy in effect and Idaho Farm Bureau policy strongly supports this concept.

We feel the distribution formula used in this bill is crafted with an eye on political votes rather than perceived needs. Some states like Alaska ($150 million), Texas ($205 million), California ($125 million) and New York ($83 million), along with the newly classified coastal states of Michigan, Wisconsin, Ohio and Illinois seem to be aimed specifically at contributing toward establishing a winning political coalition. Since Idaho has an inland port at Lewiston, perhaps we too should be classified as a coastal state and increase our allotment from $11.5 million to something really astounding. We feel that the formula used indicates the bill is designed specifically to get votes.

In closing, we want to once again thank the Committee for allowing the Idaho Farm Bureau to express our views of H.R. 701. We recognize that local government is strapped in providing parks and recreation for their citizens, but we feel H.R. 701 goes so far in expanding Federal and state land acquisition that local government needs are almost left out. We do not object to dollars being used for enhancing urban quality of life, but with the Federal Government already demonstrating it cannot manage the lands that it currently has in its inventory, we must adamantly oppose any new additions. Currently there is a $12 billion backlog on infrastructure needs on government lands and this is resulting in closing campgrounds, parks and roads throughout the nation. H.R. 701 does not address that issue, rather it adds to the problem by bringing in considerably more land to mismanage. We feel H.R. 701 needs to be extensively modified to make it good public policy and gain Idaho Farm Bureau Federation support. We do appreciate the work currently going on in Washington D.C. between the Committee and American Farm Bureau Federation to modify the bill.

Thank you again for allowing us to express our views on H.R. 701.

Mr. HANSEN. Karen Henry, the floor's yours.

STATEMENT OF KAREN HENRY, WYOMING FARM BUREAU, ROBERTSON, WYOMING

Ms. HENRY. Thank you, Mr. Chairman. Thank you for having this hearing so that we are allowed to voice our opposition. I'm Karen Henry, the elected president of the Wyoming Farm Bureau Federation, which is the largest agricultural organization in Wyoming and we represent a much smaller amount than Frank, of course, because our population is so much smaller. We have around 8,300 member families.

I'm here today representing that organization and its many private property owning members and Wyoming Farm Bureau must stand in opposition to these two pieces of legislation. The problems with H.R. 798 are too numerous to adequately cover in the short amount of time allowed here. We feel a more accurate Title for this Act would be the Central Planning Land Nationalization Act of 2000. The method of resource management advocated in this legislation has been shown to be an utter failure in the Communist Bloc countries.

American Farm Bureau Federation policy states that we favor the repeal of the Land and Water Conservation Act, and has al-

ways felt that the funds allocated under that Act should be used by the Federal land management agencies to better manage the lands that they already have. Right now the Federal land management agencies are unable to carry out their Congressinoal mandates. Maintenance and rehabilitation projects are underfunded or not funded at all and the backlog has become staggering in recent years.

You need look no farther than Yellowstone Park in my home state of Wyoming to see the many shortcomings of the Federal land management, not to mention a lot of the other things that they're not doing. The Forest Service isn't maintaining the roads that they have right now. We've looked in the high Uintahs and there hasn't been one dime used in the last 15 years to maintain those roads and the people that have to use those roads, the recreationists as well as the agriculturalists that use those roads are beating up their outfits right now because they say they have no money to maintain the roads.

The Federal Government has enough land here in the west. Farm Bureau members object to having tax money given to Federal agencies to buy up their land. Removing the private land owner will result in the reduction of the tax base. Productive uses of private land are an economic imperative in every state. With the loss of income, how will governments deal with the cost of managing, improving and maintaining their public lands as well as their infrastructures. It's one thing to buy land, quite another to manage it correctly.

Who will produce the food? If these ranches are sold, who will produce the food to feed the world? The rhinestone cowboy who will have a government check and ride around and do windshield assessments?

When governments covet a piece of land there are many weapons available to get that piece of land. Whether they're a willing seller or not there are many things that the government uses to make people willing sellers. I have a friend that lives in the east who was almost driven completely out of business by the Federal Government and he and his wife were not doing anything wrong.

There's no provision that the state and local governments must buy from willing sellers. The provisions for Congressional approval for over a million dollars are inadequate. They work well if someone has land holdings over a million dollars, but the vast majority of people do not have land holdings are that worth over a million dollars.

Unfortunately, this provision may lead to a scenario where no one has land worth more than a million dollars. Think of it the other way. Land acquisitions coupled with the burdensome environmental regulations in this country could be used to deny access for recreation, limit avenues for commerce, and control the activities of the remaining private land owners to the point that it is not profitable for them to own land. Land owners have every reason to fear that this is the real purpose of this bill.

Assertions that this bill will further protect endangered species undoubtedly stems from the Federal land management agencies' frustration that they cannot get permission to survey private land. Endangered Species Act has been used as a club against the land

owners. Changing the Endangered Species Act to reflect the reality that private land ownership promotes and maintains healthy habitat will do far more to protect the environment than any provisions of H.R. 701. Farm Bureau has always been in the front line defending private property rights, so we must oppose H.R. 701.

I have more but I will not attempt to read it all. I would just like to make a couple of additional comments. Control of the land and the water resource conveys awesome power to the entity having the control. Without the personal responsibility and obligation to the next generation that arises out of having to make a long-term living from the land, the power is corrupting. Private land owners are the best conservators of the resource. They need it to live.

In conclusion, I would just say we oppose H.R. 701 and H.R. 798. We support in part former Senator Malcolm Wallop's testimony stating that the revenues from oil and gas production should be shared with the states in which production activities are located. A 50-50 split with no agenda and no government strings attached would allow the states to do the things that they need to do. The states could use the money where it's needed. If we're going to govern by trust fund, we don't need Congress. We can put it on automatic pilot and watch it operate. Thank you.

[The prepared statement of Ms. Henry follows:]

STATEMENT OF KAREN J. HENRY, PRESIDENT, WYOMING FARM BUREAU FEDERATION

I am Karen J. Henry, the elected President of the Wyoming Farm Bureau Federation which is the largest agricultural organization in Wyoming. I am here today representing that organization, and its many private property owning members. I appreciate the opportunity to testify on H.R. 701 and H.R. 798.

Wyoming Farm Bureau must stand in opposition to these two pieces of legislation; H.R. 701 and H.R. 798. The problems with H.R. 798 are too numerous to adequately cover in the short amount of time allowed here. We feel a more accurate title for this Act would be The Central Planning/Land Nationalization 2000 Act. The method of resource management advocated in this legislation has been shown to be an utter failure in the Communist Bloc countries.

American Farm Bureau Federation policy states that we favor the repeal of the Land and Water Conservation Act, and has always felt that the funds allocated under that Act should be used by the Federal land management agencies to better manage the lands they already have. AFBF policy further state that:

> *Experience has shown that an improving environment is dependent upon economic productivity, and that economic productivity is dependent upon private ownership of the means of production. Because we view land as a means of production, we are concerned that over one-third of the land in this nation is owned by the Federal Government.*
>
> *Increasing Federal land acquisitions and Federal land use regulations are inimical to economic productivity and resultant environmental improvements. We oppose further expansion of Federal land ownership, and we support a national policy of no net loss of private lands.*

The claim that government ownership of the land protects the environment can be laid to rest just by going out and looking at the poor environmental condition of land managed solely by the government. Politics drives the management of these lands, not the needs of the resource; so the management is bound to fail, and the nation loses the resource.

Federal land management agencies are unable to carry out their Congressional mandates. Maintenance and rehabilitation projects are underfunded or not funded at all, and the backlog has become staggering in recent years. You need look no farther than Yellowstone, in my home state of Wyoming, to see the many shortcomings of Federal land management.

The Federal Government has enough land here in the west. Farm Bureau members object to having tax money given to Federal agencies to buy up their land. Removing the private land owner will result in a reduction of the tax base. Productive

uses of private land are an economic imperative in every state. With this loss of income, how are governments supposed to deal with the costs of managing, improving, and maintaining their public lands? It's one thing to buy land, quite another to manage it correctly. Even with the provision that only one-third of the money in the fund will be used to buy land in the west, we are still faced with the prospect of agencies having $126 million per year to acquire privately held lands in the west; if the fund has the full $900 million. It won't take the government long to buy up what they don't already own.

While there are prohibitions against the condemnation of property to allow purchase, and requirements that purchases of over one million dollars must have congressional approval, there are many opportunities for abuse in this legislation. When governments covet a piece of land, there are many weapons at their disposal to turn an unwilling seller into a willing seller. Further, there is no provision that state and local governments must buy from willing sellers. The provisions for congressional approval for purchases of over one million dollars are inadequate. They work well if someone has land worth over one million dollars; but do nothing to protect the vast majority of land owners whose land is worth less than one million dollars. Unfortunately, this provision may lead to a scenario where no one has land worth more than one million dollars. Land acquisitions, coupled with the burdensome environmental regulations in this country, could be used to deny access for recreation, limit avenues for commerce, and control the activities of the remaining private landowners to the point that it is not profitable for them to own land. Landowners have every reason to fear that this is the real purpose of this bill.

Assertions that this bill will further protect endangered species undoubtedly stems from the Federal land management agency's frustration that they cannot get permission to survey private land. The Endangered Species Act has been used as a club against landowners. Changing the ESA, to reflect the reality that private land ownership promotes and maintains healthy habitat, will do more to protect the environment than the provisions of H.R. 701 will ever do.

Farm Bureau has always been in the front line defending private property rights, so we must oppose H.R. 701 which establishes a fund which could be used by government agencies to acquire private property. Wyoming Farm Bureau has long been opposed to the Game and Fish Commission setting up a trust fund for the purposes of game management, wildlife habitat or any other purpose, including land acquisition.

Control of the land and water resource conveys awesome power to the entity having the control. Without the personal responsibility and obligation to the next generation that arises out of having to make a long term living on your land, that power is corrupting. The power derived from land ownership by the government, or the public, is not power that is invested back into the resource, it is invested in creating agency empires; in creating political power, and in gathering the power to force people to conform with what the government thinks is the ideal working society. Bills like H.R. 701 and H.R. 798 erode our ability; our very right, to be self-determining. Private ownership of property is one of the cornerstones of our democracy. The founders of this country knew, firsthand, what it was like to have a society where only the governing elite, or the monarchy, controlled all the land.

Private landowners are the best conservators of the resource, they need it to live. Private land in Wyoming supports most of the state's wildlife and water resource. While private landowners have been demonized as destroyers of the earth and wasters of the wildlife and the water, just a little critical thought will expose the weakness of this reasoning. Healthy land is the only way to success for an agricultural producer. A government, on the other hand, does not necessarily have to worry about the health of the land. They just have to worry that they have the biggest chunk. Having the biggest piece translates into more money, more power and more influence. The loser here is the resource; there is no one to care for the land, because responsibility can be passed to the next person. That is the tragedy of the commons, everyone owns it, but no one is responsible for it; the buck never has to stop. There is no justification for giving the government more money or power to acquire land, and further erode the rights of citizens in this country to own property, determine their own fates, and exercise their freedoms.

We oppose H.R. 701 and H.R. 798. We support, in part, former Senator Malcolm Wallop's statement in his testimony that revenues from oil and gas production should be shared with the states in which production activities are located, a fifty-fifty split with no agenda attached. The states use the money where it is needed. Straightforward legislation that would share revenues to help the states meet their individual needs; not the perceived or political needs of the Federal Government would be supported. If we are going to govern by trust fund, we don't need Congress for representation; we can simply put government on auto pilot and watch it run.

Thank you for this opportunity to testify in opposition to H.R. 701 and H.R. 798.

Mr. HANSEN. Thank you. Questions for this panel? Mrs. Chenoweth, recognized for five minutes.

Mrs. CHENOWETH. Thank you, Mr. Chairman. I appreciate the good testimony that we've heard. Mr. Priestley, thank you for your kind comments and I wanted to address the issue of condemnation which you made mention of in your testimony. The fact is indeed this bill allows for condemnation of private property. But I also want to call to the attention of the members and to you, too, that it will not allow for any of the funds to be used to pay the owner for the acquisition of his land. So again, I think that's more than disingenuous. It needs to be corrected.

I appreciate the fact that you picked up on the issue of partnership. When the Federal Government talks about partnership, I think the local units of government and individuals need to grab their pocketbooks and run, and this bill is replete with promises of partnership but as we examine the fine print in the bill, the partnership means that the Secretary of Interior shall have the final say over any partnership agreement, either with the states or local units of government. I appreciate very much your bringing that out in your testimony.

Mr. Chairman, I also want to say that with a $5.7 trillion debt, you know, it's not only going to—this is not only going to hurt our tax base, but where are we going to get the money to refund the Social Security Trust Fund that this bill and the $4 billion that is targeted here, $4 billion that is targeted here—no, $2 billion that is targeted here will take a big chunk out of our attempts to continue to balance the budget and live up to the trust responsibilities that we have with the American people to rebuild the Social Security Trust Fund that we have been expending on general fund expenditures.

And finally, I appreciate the testimony where there was a question about how will it happen if we turn more land over to the Federal Government to manage when we know, and you continue to receive testimony in your Committee, as I do in mine, that the land managers are far behind in good management practices of their land and facilities.

And so with that I do want to say that we need to continue to ask how much is enough? What is the appetite of the Federal Government? When will Utah have given enough? When will Idaho have given enough? Nevada has given 94 percent of their land, Alaska 98 percent of their land. When is enough enough? I think that we need to start pushing the envelope the other way. Thank you very much.

Mr. HANSEN. Thank you. The gentlemen from Idaho, Mr. Simpson, you're recognized for five minutes.

Mr. SIMPSON. Thank you, Mr. Chairman. Ms. Henry or Mr. Priestley, you're both opposed to this bill. Does this bill do anything good?

Ms. HENRY. Mr. Simpson, I can't see anything in the bill that is good. I can see where the people in the urban areas need to have their green belts as Mrs. Chenoweth has referred to and some of those things, the inner city recreation, and recreation is very important for people. I understand that. But I also agree with one of

the gentlemen that spoke before that the access to the Federal lands is being so limited right now through the forest service with their road closure moratorium and things like that, I can't see anything in the bill that is good.

I have a whole page of things that I have listed. Page 12, lines 1 through 19, refers to this not being a budget item and I would say in reference to what Mrs. Chenoweth brought up about the $5 trillion debt, I think that if we have that much money, it should be applied to the debt. It shouldn't be applied to all these perks. Maybe by bringing the money back that was denied in 1995 that was referred to before, that would probably help some of these urban communities with their recreation, but this bill, as it's written, will not do anything for recreation.

Page 19, lines 13 through 16, is a slap in the face for every governor. It assumes that some underling state agency, instead of the state governor, will be dealing with the Secretary of Interior. The Secretary of Interior has complete authority with no ability for appeal. That's definitely not the American way.

Pages 43, lines 11 through 14, what nongovernmental entities are we talking about? Who are these government entities that are going to be able to enforce these easements? What about the states that have laws on the books that say perpetuity is illegal? Easements are for perpetuity. If you lock up a ranch in perpetuity, that disallows anyone from ever selling a little piece of land to save their land, to save their children, to send their children to college. These are not good things. These are things that will put our farmers and ranchers—I'll say ranchers, I won't say farmers. These are things that will put our ranchers out of business.

Mr. SIMPSON. So what you're saying is that there's nothing in here worth saving. There's no way to correct this bill, there's no way to amend it to correct it, there's nothing worth saving in it?

Ms. HENRY. Yes, sir.

Mr. SIMPSON. And I understand your testimony, you said we ought to repeal the Land and Water Conservation Fund; is that right? Did you say that in your testimony?

Ms. HENRY. I'm saying that if we do continue with the Land and Water Conservation Fund for some of the projects like the first lady that spoke within the urban areas, that's great. But to expand it out to the extent that these bills have been expanded is absolutely unthinkable.

Mr. SIMPSON. I guess my point is is that many of us, in effect all of us, that's why some of us haven't signed on to it and we see there's good aspects of it, things we like in it, there's bad aspects. And what we're trying to find out is what are the parts of it that we don't like that we can change and can we make it something that will in fact be good or is it just rejectable from the start? I guess that's the question I'm asking.

Mr. Priestley, is there anything in here worth saving?

Mr. PRIESTLEY. Well, we have no objections, Congressman, about enhancing the urban life of the parks and those type of things or the open space concepts that have been very muchly talked about today. We do object that this could become a major land acquisition program. At a time when the Federal Government is not able to manage the land they already have.

Mr. SIMPSON. I agree fully.

Mr. PRIESTLEY. I was in Couer d'Alene not long ago and we went on a range tour of some forest land. As you looked across the hills you could clearly feel what was state or what was Federal. A short time ago, I don't remember the dates, a terrible ice storm came across northern Idaho. It broke off the tops of most of the pine trees. That, in essence, killed those trees. On the state and the privately owned properties, the trees were harvested and we still have a beautiful forest. On the other side of the line controlled by the Federal Goverment, we have a whole forest full of dead trees that's been infested with beetles and it is prime for a forest fire. To me that's not managing land. The Federal Government should be required to manage the land it has before being allowed to acquire more to leave unmanaged.

Mr. SIMPSON. I guess a lot of us are really concerned about the Federal Government acquiring land but we don't mind states and communities being able to acquire those types of open spaces for whatever, recreational facilities and those types of things, and we're trying to find a way to be able to fund that to get money back into the Land and Water Conservation fund for those types of things.

I don't want the Federal Government coming in and starting to purchase large tracts of land again. I like some of the easement provisions where we can purchase land for open spaces on a willing seller/willing buyer type of provision, trying to maintain open spaces. Quite frankly, in many farm communities that would help some of the farmers that have talked to me that think that that's a good idea. I guess I'm trying to find out what aspects of this are worth saving and what should we say is out of balance. I appreciate your testimony here today. And what you've entered in the record that you weren't able to state I'll sit down and read.

Mr. HANSEN. Thank you. The gentleman from Utah, Mr. Cannon, is recognized for five minutes.

Mr. CANNON. Thank you, Mr. Chairman. Ms. Fisher, I was interested in your statement. Just for the record to clarify, I take it it was the value of your parents' land that has gone up ten times, right?

Ms. FISHER. Yes.

Mr. CANNON. At this point you're concerned because death taxes would cause that to be sold and I suspect that would mean probably some kind of development that would ruin what you would consider a pristine area.

Ms. FISHER. Yes. For me and my siblings the idea of being able to stay on the family farm and being able to do what we have been doing is what we're interested in doing. But with the estate tax issue and the fact that the farm has increased tenfold we would probably have to sell some of that land off for development and that's one of the things actually that has prompted us to look at a conservation easement on our particular property because it's a long term visioning that we can do as a family but in terms of preservation we're looking at the vision of what we want to see happen on that property from generation to generation.

Mr. CANNON. It seems to me that this is actually quite an interesting issue of policy generally in the United States and it might

be interesting for your group and Chris, Mr. Robinson, it might be interesting for Nature Conservancy to take a look at policy, at a recommendation as to what ought to happen with the death tax or the elimination of the death tax. It may be you guys operate on such a large basis that it may be that people who have to sell their land makes a better market and it's easier to buy choice pieces of property to conserve but on the other hand it may be that forcing people into selling it then becomes prime for development is the kind of thing you'd like to avoid.

It would be interesting to me if Nature Conservancy would take a look at that and see if they could derive a position about the death tax which I think is a most counter productive tax that's ever been envisioned by the mind of man or woman or king or subject anywhere. Do you know, Mr. Robinson, if Nature Conservancy has ever looked at that?

Mr. ROBINSON. As I said, Representative Cannon, I'm a board of trustee member. I'm not familiar precisely whether they have. I believe they have. I wanted to say one thing though about this issue that's been sort of highlighted by Ms. Fisher and you in this dialogue and that is that when you have a property that's gone up tenfold and Ms. Fisher (inaudible) if she were trying to earn a livelihood off the land in this commodity based ag business (inaudible) what winds up happening is, not just to pay the death taxes but just to keep food on the table, people wind up having to sell the property, whether it's one piece at a time or whether it's the whole shooting match.

And so what these conservation easements allow, especially if there's a funding source for them, is that she could sell easement on a property which would solve the estate tax problem because then when she does pass away, then the valuation's less and maybe statutory exemption is six hundred or seven hundred thousand would cover it but by the same token, you have to see property preserved. But right now the development tool or the tools that are available are the land owner can either just leave it as it is and suffer the consequences of ownership or—there isn't a funding mechanism to buy those development rights which constitute by and large the biggest share of the bundle of rights. And so what this conservation fund does in part is provides matching—could provide a funding source to do some of the things that Open Lands and Nature Conservancy and other groups in trust for public lands is trying to do. You have to keep these lands open and operating farms and relieve the financial pressure.

Mr. CANNON. I suspect that you may end up deciding that the inheritance tax is actually a good tool to encourage people to divest that bundle and that may be a very good thing, although I do not like the inheritance tax myself.

Let me just end by saying I want to thank the two representatives from the Idaho and Wyoming Farm Bureau. I think you've stated your ideas clearly and thoughtfully and we appreciate that input. And thank you also Ms. Fisher and Mr. Robinson.

Mr. HANSEN. Thank you, Mr. Cannon. You've all brought up some very interesting points. Ms. Henry, did you want to respond? I'll give you 30 seconds to respond.

Ms. HENRY. No, sir, I didn't have a response, I had a question. You said if we asked questions of you to make them clear and you will write back the comments? I'm unclear on what you said in the beginning.

Mr. HANSEN. I was pointing out that any solutions that you had to these bills or something you wanted to change or you felt there was a good amendment or you wanted to object to a part of it, please write us and let us know. We would love to hear from you and we appreciate you bringing that up.

Ms. HENRY. Thank you.

Mr. HANSEN. You've all brought up some interesting things. There is some really tough problems. You can't please everybody. We never try. We try to do what we think is best for all America and that's a hard thing to do.

Mr. Priestley, you brought up the idea of inholdings in parks. I chair the Committee on public lands. They have 374 units that we're looking at and a whole bunch of them have little teeny pieces in them. People will never be able to use them. You're paying taxes on them. Then on the other hand, who wants to take out all these big pieces in forest service and other areas? It's a real tough question.

The gentleman representing Nature Conservancy, I admire you folks because you market the marketplace. No disrespect to some people but they market the legislature and they feel they go to the legislature. We're marketed constantly, whether it's Sierra Club or Wilderness Alliance or whoever it is, they're constantly trying to get Congress to do things that affect their work. And frankly, it's nice if people go in on a willing seller type of thing. I have to say I admire that and I'm sure we all have disagreements but I always get a little resentful sometimes when I see so many organizations who are marketing the marketplace. They form entire organizations. They create an industry just for doing that. And basically it's for their own very limited and very restrictive agenda.

I'm going to excuse this Committee and I'll probably get in trouble for this but my two colleagues from Idaho have asked for two additional people to speak, Mr. Simpson and Ms. Chenoweth. The problem we get when we do this, we don't have testimony so we can't drill you and ask you nasty questions and all that kind of thing.

But we would like to invite, as we've excused this panel, Karen Conway, Executive Secretary of the New Mexico Cattle Growers Association and Dennis Maughan, Commissioner of Twin Falls County, Idaho. If you two would like to come up for just a moment.

STATEMENT OF CAREN COWAN, EXECUTIVE SECRETARY OF THE NEW MEXICO CATTLE GROWERS ASSOCIATION

Ms. COWAN. I appreciate this opportunity and thank you for letting us speak. First of all, I thank you for taking on this issue and I appreciate you being here but it's frustrating to see that we had 13 witnesses and only four on the side against the bill.

First of all, as Mr. Smith stated, our association has a policy of no net loss of private lands. And if that could be put into this bill we would have a much greater comfort level although that may not solve all the problems.

We do appreciate, Mr. Simpson, that it talks about willing seller and willing buyer but as you heard today there are lots of laws that take away that concept, the death taxes being one of them. Maybe we should fix those laws rather than write a new law that might create greater problems. So we appreciate you looking into those areas.

We talked about the management of Federal lands. We have a tinder box in all of our forests and then that in turn affects our water quality and water quantity, which the Clean Water Act is now coming down hard on. We've heard about the need for public lands. I guess the best way to look at the situation is to ask, which do you think you'd rather use, a public rest room or a private one?

The folks that talked about their businesses today and how they thought that private land owners were locking up lands, are their rest rooms open for anybody to come in anytime of day or night? That's the situation that we're in. In New Mexico we have encouraged people to post their property with no trespassing signs but that's because of the Endangered Species Act and the Clean Water Act.

We don't want folks coming on our private land identifying species or as Chairman Hansen talked about, putting species on, endangered species, to limit our private property. It's not to keep the hunters off. It's not to keep the public off.

I was brought up with the ethic that you shared the land. My grandparents didn't pass it on to my parents and my parents on to me to lock it up. It's ours to use for a while and to share. But the Federal laws have come down and taken away that principle from us and we need your help to fix that.

There are some good things in this bill in terms of urban recreation and everybody believes, that I work for, thinks that's necessary. But the strings that are tied to it are too great for the private property owners to pay.

The conservation easement situation is something that I personally really have a problem with. I have a family where we've got a land inheritance to work with and we have a family fight every year whether we need to or not and half of us don't speak for six months because we can't figure out what we're going to do with the land. But we don't want to sell it. A conservation easement would take away my nephew's right to decide what he wanted to do with it in the future.

And I'll take two more seconds. Talking about the roadless situation and the divisiveness that this bill has caused people who all have the same stake in the card that we want to care for the land, we want greater wildlife, we want greater opportunity. With this bill obviously you can see the dangers, that's why it's divided people. Who benefits from that, I guess that is the question that I would hope you could consider.

You mentioned PILT payments. If I understand the bill right it takes PILT payments from Congress to the Secretary of Interior. Is that going to benefit anybody? That's a question I have. I don't have the answer to that. I crashed a forest service roadless forum a few weeks ago and there were 15 people there who were ranchers, there were off road vehicle folks and environmentalists and by the end of the evening it was determined that it was the hunters'

fault that the forest service roads are in such bad shape because they go in in poor weather and tear it up, and of course there were no hunters there to defend themselves.

And finally one of the ranchers piped up and he said, Wait a minute, the hunters didn't cause the Grand Canyon. I responded that I had heard that rangers had caused it. We can't sit here and point fingers but I don't believe this bill has hit that mark yet. Thank you very much for your time.

Mr. HANSEN. Thank you. Commissioner?

STATEMENT OF DENNIS MAUGHAN, COMMISSIONER OF TWIN FALLS COUNTY, IDAHO

Mr. MAUGHAN. Mr. Chairman and members of the Committee, it's an honor for me to be here. I hadn't planned on testifying so I was relaxing until Congressman Chenoweth and Congressman Simpson intervened and then I got all of a sudden nervous and started making all sorts of notes and should have just relied on my original. But I do thank you very much for allowing me a few moments to share my thoughts on H.R. 701. I have not looked at H.R. 798.

I've got some blended comments coming from a local county perspective and a state perspective. I've been serving on the County Commission since 1994 in Twin Falls County, which is about 65,000 people. About 40 percent of it is federally owned by BLM and forest service so we know what effects Federal ownership can have on local government and we do appreciate those PILT payments so keep those coming. Don't interrupt those, please. They are helpful.

Fortunately, at this point with H.R. 701 we have an opportunity to maybe build on some things that we had in the past as it relates to the Land and Water Conservation Funds. Twin Falls County has nine parks along the Snake River. Six of those were built with Land and Water Conservation Funds. The great thing about that was that the state shared in a 50-50 local match. Those projects and those lands were titled for Twin Falls County.

If there's anything that I'd like to see done with H.R. 701 is that provision of the Federal partnership taken out, only because it's worked so well in the past that we should rely on the 1965 Land and Water Conservation Fund rules for that grant and those land acquisitions.

I will try to blend through these. The Land and Water Conservation Act of 1965 was a promise to the citizens of the United States to fund this renewable resource outdoor recreation using a nonrenewable resource. It should be appropriated to the states without annual review, I believe. The Idaho State legislature saw the value in restoring this funding and overwhelmingly passed this last year House Joint Memorial II. Support also comes from the National Governors Association and the National Association of Counties.

Idaho, as many states, suffers from limited state and local budgets, especially when it comes to outdoor recreation, facilities and programs. In many cases we've realized a reduction in our local and state in this area. The State Parks and Recreation Department has been asked to seek alternative funding from the legislature, as Congressman Simpson knows, to accomplish their mission and has

worked hard and proposed legislation only to be vetoed a couple of times. They've been asked to come up with creative answers and really end up having a shortfall. It just hasn't been enough.

Our cities and counties in Idaho are unable to sustain Idaho's rapid growth. At the same time citizens and visitors, as we all know, are demanding more recreation opportunities and need additional facilities to accommodate their use. H.R. 701 for Idaho would give us $6.2 million annually for maintenance, repair and acquisition for our local and state parks and recreation facility. It would also provide $5.5 million for wildlife programs and conservation efforts.

I would urge you to look at the merits of H.R. 701 as it impacts local and state—not so much how it impacts the Federal Government because I think the promise back in 1965 was there to share those offshore oil royalties with the states and figure out a way to develop H.R. 701 into this partnership with the states. They can pass it on to a local entity and we can continue to provide outstanding opportunities for our folks in recreation.

I would say I know there's an increased concern over land acquisition. I think I've given you my thoughts on that. I believe that there is a way that we can work this out with a Federal partnership as far as the appropriation. Thank you very much for your time and I wish you good luck on this one.

Mr. HANSEN. Thank you, Commissioner. Any members of the Committee have a burning desire to ask questions or comment on the statement of our two friends here?

Mr. SIMPSON. I just thank the chairman for allowing us to have these two additional witnesses.

Mr. CANNON. If I might I would just like to assure Mrs. Cowan that all of us know the difference between numbers and the quality of insight that we get from witnesses.

Mr. HANSEN. Both of you were excellent and we appreciate your good testimony. You mentioned though, as Mr. Cannon pointed out, we're trying basically to get information and we look at who we can get information from. It's kind of hard to say four on this side, four on that side type of thing so we try our best to do that and it's very difficult. You've aptly pointed that out.

With that stated, let me thank all the people who are here today for your excellent testimony, your time and patience. We thank our staff people for coming out from Washington. I know they're all antsy to catch airplanes and get out of here. I think Mrs. Chenoweth deserves to go to dinner somewhere because she's probably fasted for two days straight.

So with that we'll consider this closed. This was Mr. Young's bill, Mr. Miller's bill. We would like to hear comment on both of those bills. This hearing is adjourned.

[Whereupon, at 2:15 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows.]

BRIEFING PAPER

H.R. 701—*"CONSERVATION AND REINVESTMENT ACT"*
H.R. 798—*"PERMANENT PROTECTION FOR AMERICA'S RESOURCES 2000"*

This will be the fourth legislative hearing the Committee has held on H.R. 701 (Young, AK), *"Conservation and Reinvestment Act"* and H.R. 798 (Miller, CA), *"Permanent Protection for America's Resources 2000."*

CARA Summary:

- This bill resolves the inequity of oil and gas revenue distribution while providing for important conservation and recreation programs. It represents a responsible reinvestment of revenue from non-renewable resources into renewable resources of conservation and recreation for all 50 states and territories.
- The Senate companion bill titled *"The Conservation and Reinvestment Act of 1999"* (S. 25) is similar, but not identical.

In January 1999, the Clinton Administration unveiled a similar proposal titled *"The Lands Legacy Initiative."* However, there are substantial differences. Some include:

- *CARA's emphasis on local government authority and involvement.* This is a key element of the House legislation but diminished in the President's initiative.
- *Protection of individual property rights* are included in the House legislation but excluded from the President's initiative.
- *New restrictions on access to public lands* by creating new wilderness areas which is a focal point of the President's initiative but not included in the House legislation.

Title I—OCS Impact Assistance

- Creates a revenue sharing fund for coastal states and eligible local governments to mitigate the various unintended impacts of OCS activities and to support sustainable development of nonrenewable resources.
- This is accomplished *without creating an incentive for new oil and gas development* and will have no impact on current OCS leasing moratoria or the President's Executive Order concerning outer continental shelf leasing.
- 27 percent of OCS revenues distributed amongst 35 coastal states and territories.
- Distribution formula based on production, coastline miles, and population. A provision was added in the 106th Congress to *ensure that areas held in moratoria are precluded* from both revenue inflows and for the computation in determining a state and eligible political subdivision's allocation.
- 50 percent of the funds are shared with local governments (counties, boroughs, parishes) in states where Federal OCS production exists. In all other cases, 100 percent of the state's allocation would be directly allocated to the state government.

Title II—Land-based Conservation

- By reallocating 23 percent of OCS revenue, CARA guarantees stable and annual funding for the Land and Water Conservation Fund (LWCF) at its authorized $900 million level. This dedicated funding would provide for both the state and Federal programs included in the LWCF.This title of the bill also includes funding for important recreation projects through the Urban Parks and Recreation Recovery Program (UPARR). More than $100 million would be dedicated to this important program annually.
- In Titles One and Two contain provisions to fund Payment In Lieu of Taxes (PILT). While the funds from these two titles are held in the Treasury for a year before disbursement they will accrue interest on approximately $2 billion; that interest will be *provided directly to PILT.*
- CARA includes amendments to the LWCF Act to make the long awaited improvements regarding the operation of the state-side matching grant program.
- While funding is provided for Federal land acquisition within the Federal-side of the LWCF, there are some protections to note:

  —The funding cap for Federal LWCF expenditures, included in CARA, is near the $300 million historical average for Federal LWCF appropriation;
  —Acquisition can only take place with willing sellers and is only allowed within Congressionally approved boundaries;
  —None of the funding provided for Federal purposes may be used for the condemnation of any interest of property.
  —An Act of Congress must be passed to approve projects (acquisition, improvements, buildings, etc) over $1 million; and

—2/3 of the funding available must be spent east of the 100th meridian.

Title III—Wildlife-based Conseravation

- This title of the Conservation and Reinvestment Act of 1999 will reallocate 10 percent of the revenue gained from oil and gas development in the Federal waters of the outer continental shelf (OCS) to provide dedicated funding for wildlife conservation and education programs.
- This fimding will not only accomplish the goals of *"Teaming With Wildlife",* but surpass the level of funding anticipated with that proposal.
- CARA **will not** establish an excise tax.
- Title III funds will be distributed through the Federal Aid in Wildlife Restoration Fund also known as Pittman-Robertson (P-R). Since fiscal year 1939, Pittman-Robertson has collected and disbursed more than $3 billion for wildlife conservation and recreation projects across America. Made possible entirely through the efforts and taxes paid by sportsmen, the funds are derived from an 11-percent excise tax on sporting arms and ammunition, 10-percent on pistols and revolvers, and an 11-percent tax on archery equipment sold specifically for bow hunting.

Resources 2000 Summary:

- Provides annual funding for resource preservation;
- Limits funding source to revenues from leases in the Western & Central Gulf of Mexico that were in production by January 1, 1999. Prohibits inclusion of any dollars derived from lease sales issued on or after date of enactment;
- Provides automatic trigger to proportionally reduce funds in fiscal years in which the total amount of eligible revenues received is less than the amounts spelled out above;
- Provides $250 annually for operations and maintenance of National Parks, Wildlife Refuges, public lands administered by BLM, and National Forests;
- Caps administrative expenses at 2 percent for each activity;
- Does not include any private property restrictions such as a prohibition against condemnation of private lands; and
- Coastal title excludes local governments as an eligible recipient of funding and caps the total amount of funds available to a single state at 10 percent in a fiscal year.

Summary of Resources 2000 funding by program:

Land and Water Conservation Fund (Federal) funded at $450 million:
One-half of the annual $900 million allocation of the LWCF would be dedicated to Federal acquisition of lands authorized by Congress for our national parks, national forests, national wildlife refuges, and public lands.

Land and Water Conservation Fund (Stateside) funded at $450 million:
The other half would go for matching grants to the States (by formula and competitive grants) for the acquisition of lands or interests, planning, and development of outdoor recreation facilities.

UPARR funded at $100 million:
Provides matching grants to local governments to rehabilitate recreation areas and facilities, provide for the development of improved recreation programs, and to acquire, develop, or construct new recreation sites and facilities.

Historic Preservation Fund funded at $150 million:
Funding for the programs of the Historic Preservation Act, including grants to the States, maintaining the National Register of Historic Places, and administer numerous historic preservation programs.

Lands Restoration funded at $250 million:
Funds a coordinated program on Federal and Indian lands to restore degraded lands, protect resources that are threatened with degradation, and protect public health and safety.

Endangered and Threatened Species Recovery Fund funded at $100 million:
Funds implementation of a private landowners incentive program for the recovery of endangered and threatened species and the habitat that they depend on.

Ocean Fish/Wildlife Conservation, Restoration, and Management funded at $300 million:
Funding for the conservation, restoration and management of ocean fish and wildlife of the United States through formula grants to coastal states (including Great Lakes States) and competitive, peer-reviewed grants to private entities. *$300 Mil-*

lion begins in FY 2005 and each year thereafter; (FY 2000-2001=$100 Million; FY 2002-2004=$200 Million annually)

Native Fish/Wildlife Conservation, Restoration, Management funded at $350 million:

Provides funding for the conservation, restoration and management of native fish, wildlife and plants through formula grants to the states for the development and implementation of comprehensive plans. *$350 Million begins in FY 2005 and each year thereafter; (FY 2000-2001=$100 Million; FY 2002-2004=$200 Million annually)*

Farmland and Open Space Preservation Grants funded at $150 million:

Matching, competitive grants to state, local and tribal governments for open space planning, acquisition and administration of threatened farmland and urban forests, to help communities grow in ways that ensure a high quality of life and strong, sustainable economic growth.

Total Funding: $2.3 Billion

Staff Contact: Mike Henry, 225-9297

To: Congressman Chenoweth

From: Mike Poulson, Chair, Salmon and Natural Resource Committee

Date: June 7, 1999

Re: H.R. 701 Salt Lake Hearing

I am sending Washington Farm Bureau's testimony from a previous H.R. 701 hearing. I would appreciate it if you would enter it into the record at the Salt Lake hearing.

There is no greater hypocrisy associated with politics in the United States than in laws and regulations proposed to be protecting the environment. In the name of environmental protection we continue to lockup land and lockout producers while exporting the affects of our consumption to other countries. The continued reduction in available resource producing land has not resulted in a reduction of resource use by American citizens. We just import raw materials that are no longer available in the United States. We don't have an environmental policy, we have a "do it somewhere else" policy.

The sad irony with this policy is that it has caused the most environmentally responsible resource producers (U.S. producers) to be eliminated in favor of those in other countries where we have no environmental oversight. With this action we not only export the effects of our needs, but we transform resource-producing communities into ghettos.

If H.R. 701 passes with the land acquisition portion intact it will add to the export of environmental effects of our consumption and the destruction of rural communities and their environment.

M. Ke

WASHINGTON STATE
FARM BUREAU

1011 10th Avenue S.E. • P.O. Box 2009
Olympia, Washington 98507

(360) 357-9975
Fax (360) 357-9939

April 8, 1999

The Honorable Don Young
House Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

Re: Testimony for the record on hearing on H.R. 701 - March 31, 1999

Dear Chairman Young:

Washington Farm Bureau's policy does not support any net increase of federally owned land or federal stimulation of land acquisitions by state and local governments. As long as the land acquisition portion remains we must go on record as opposed to H.R. 701.

Washington State already experiences a negative environmental and economic situation due to poorly managed federal and state lands. As a result, we believe there is no plausible reason why federal land ownership should be expanded; instead emphasis should be placed on responsible management of the 676 million acres presently controlled. If H.R. 701 becomes law it would exacerbate what is a growing problem in our rural communities.

On balance, privately owned lands are managed in a more environmentally responsible manner than lands managed by government. From an environmental standpoint it makes more sense to provide incentives that keep good resource lands productive than to intentionally add to the portfolio of government ownership. Without encouragement to protect privately owned productive resource lands, subdivision and development will continue to expand, habitat for the majority of our nations plant and animal species will continue to decline, and we will continue to export the environmental effects of our citizens' consumption to other countries.

Washington Farm Bureau is in support of the provision for sharing Outer Continental Shelf oil and gas production revenues with adjacent states. We also support the spirit of the clause that prevents condemnation of private property for land and water conservation purposes. Preventing condemnation is commendable, but will have little meaning as long as the Endangered Species Act and other federal regulations provide "taking tools". At this time we believe that environmental laws are more apt to infringe on private property ownership than condemnation.

Many of the well-intended laws Congress created are now the greatest threat to denying future generations a sustainable resource base. It is time to acknowledge the flaws and restore our federal lands through active management - not expand on the error. Therefore we ask you to give serious consideration to amending H.R. 701 so that we eliminate any net increase in land ownership by our government. We have far too much land off the tax roll in the West as it is. Thank you for considering our request.

Sincerely,

Steve Appel
President

c: Representative Jay Inslee 308 Cannon
Representative Jack Metcalf, 1510 Longworth
Representative Brian Baird, 1721 Longworth
Representative Doc Hastings, 1323 Longworth
Representative George Nethercutt, 1527 Longworth
Representative Norm Dicks, 2467 Rayburn
Representative Jim McDermott, 1035 Longworth
Representative Jennifer Dunn, 432 Cannon
Representative Adam Smith, 116 Cannon
President Dean Kleckner, American Farm Bureau Federation, Washington, DC

STATE OF UTAH

MICHAEL O. LEAVITT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY
84114-0601

OLENE S. WALKER
LIEUTENANT GOVERNOR

March 4, 1999

Allen

The Honorable James V. Hansen
U.S. House of Representatives
242 Cannon House Bldg.
Washington, D.C. 20515

Dear Congressman Hansen:

As a distinguished member of the House Resources Committee, next week you will be discussing, among other things, House Bill 701, the Conservation And Reinvestment Act (CARA). I have reviewed this proposed legislation carefully and I can tell you now that I wholeheartedly endorse the concept of using OCS revenues to fund wildlife conservation, conservation education, and wildlife-dependent recreation. As you know, this is not a new concept. The Land and Water Conservation Fund Act already authorizes Congress to annually appropriate funds from offshore oil and gas revenues.

This legislation builds on the traditional support the states have relied upon for decades from our nation's hunters and anglers to finance state fish and wildlife programs through an excise taxes on sporting arms and ammunition, fishing equipment and outboard motor fuel. Unfortunately, Utah's and the nation's hunters and anglers have carried the burden for almost all wildlife management far too long. The time has come to broaden the funding base to states by creating a permanent appropriation from OCS revenues.

CARA funding would provide Utah and other western states with the tools and resources to implement fish and wildlife conservation programs based on the "Enlibra" principles I spelled out at the Western Governor's Conference.

Passage of this legislation would position Utah to avoid the economic and social disruption that inevitably occurs when wildlife species are placed on the federal threatened and endangered species list. OCS funding would provide the means to take preventative conservation measures to address habitat requirements of declining fish and wildlife species before they reach levels where federal listing becomes necessary.

Congressman Hansen, I urge you and your colleagues on the House Resources Committee to support and promote this important legislation for the mutual benefit of Utah's wildlife and wildlands resources, and the hundreds of thousands of Utahns who cherish and enjoy wildlife-related outdoor recreation.

Sincerely,

Michael O. Leavitt

Michael O. Leavitt
Governor

WELCOME TO
BRIGHAM CITY
CORPORATION

March 2, 1999

Representative James Hansen
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Hansen,

Your colleagues, Representative Don Young and Representative John Dingell have introduced H.R. 701, "The Conservation and Reinvestment Act of 1999." This bill would restore stateside funding for the Land and Water Conservation Fund. That funding would reach municipal levels and help in the acquisition and development of open space and the development of recreational facilities that families will use.

With the unprecedented growth occurring in Utah, LWCF Stateside Program becomes a vital tool to meet the open space requirements of our city. Please support this important bill. Your support of the passage of H.R. 701 is essential for municipalities in Utah to meet the demands of growth and in providing sufficient parks and recreation facilities not only now, but in the future. Families that play together, stay together; this bill restoring LWCF Statewide Program Funding will help provide the facilities and open space needed to strengthen families and our community.

On behalf of the citizens of Brigham City, we endorse and encourage your efforts to pass H.R. 701.

Sincerely,

Mayor David T. Kano

PHONE: (435) 734-2001 • P.O. BOX 1005 • 20 NORTH MAIN, BRIGHAM CITY, UTAH 84302

Clearfield City

proud of our past.... keeping pace with the future

The Honorable Jim Hansen
U.S. House of Representatives
Washington, DC 20515

Dear Honorable Representative Hansen,

I am writing you to urge you to sign on as a cosponor for the Land and Water Conservation Fund bill and/or the Urban Park and Recreation Recovery Program. Both of these bills would help to ensure permanent funding for critical needs throughout the country for parks and recreation.

Public parks and recreation facilities and services provide individuals and families with opportunities to improve physical and mental health. They are central to national and community efforts to conserve natural, historic and cultural resources, protect the environment and create a sustainable economy. Recreation facilities and programs are critical alternative for youth in high risk areas where the need for safe, affordable places to engage in constructive activity during non-school hours. They are an integral part of community delivery systems for public health care, nutrition programs and other services for elderly, low income and other populations. Past funding to Clearfield City has provided many of these positive opportunities to the citizens and those from surrounding areas.

Recently Utah State Parks and Recreation held a strategic planning meeting with parks and recreation professionals throughout the state and at the meeting one of the greatest needs identified was a steady funding source so that projects could keep pace with the population growth. It is critical to join forces with federal, state and local entities to foster good projects.

The Land and Water Conservation Fund state assistance program and the Urban Park and Recreation Recovery Program are highly effective federal - state partnerships for ensuring that the public has access to affordable, close-to-home public recreation opportunities. Funds for LWCF state assistance and UPARR should be restored and made permanent. In addition, Legislation to renew the LWCF state assistance program should continue the program's existing state and local authority to determine recreation and conservation priorities. Eligible activities should continue to include the development of appropriate recreation facilities that now aid public access and promote

40 South 125 East

CRD
CLEARFIELD RECREATION DEPARTMENT

Clearfield, Utah 84015
774-7270

sustainable use.

Recreation is a high priority for the American public. During recent elections, citizens from communities all across the country voted to increase local investment in protecting open space, resorting urban parks and saving our nation's natural treasures. Congressional action should reflect the public's demonstrated interest! Pass legislation that will permanently renew the promise of the Land and Water Conservation Fund and the Urban Park and Recreation Recovery Program this year!

Sincerely,

Tracy Heuri
Parks and Recreation Director
Clearfield City



Working with communities and landowners to preserve southwestern Utah's heritage of scenic beauty and open lands.

VIRGIN RIVER LAND
PRESERVATION ASSOCIATION

P.O. BOX 1804
ST. GEORGE, UTAH 84771-1804
PHONE 435 674 1074
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KENT PERKINS

EXECUTIVE DIRECTOR
LORINDA ROSE

March 3, 1999

Representative James V. Hansen
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Hansen:

I am writing to urge your support of H.R. 701, "The Conservation and Reinvestment Act of 1999." As this bill moves forward, please ensure full funding for the Land and Water Conservation Fund Stateside Program. Stateside LWCF is important to Washington County because it can help to acquire critical property referred to locally as the "Confluence Project." The project brings together landowners, communities, recreational interests and wildlife enthusiasts with the common goal of conserving this uniquely beautiful area as a public park.

Basic Facts. The Confluence Project encompasses over 500 acres of varied terrain with approximately 3.5 miles of riparian frontage on the mainstem of the Virgin River and two of its tributaries--Ash and LaVerkin Creeks.

As the communities of Hurricane and LaVerkin continue to grow and deal with the challenges of rapid residential development, there is a need for developing parks and recreational opportunities to meet the needs of local citizens. The canyon where Ash and LaVerkin Creeks join the Virgin River provides unparalleled opportunities for picnicking, hiking, bird watching and horseback riding among shady stands of cottonwood and sandy beaches. Although the river is in a deep canyon both up and downstream from the confluence, the confluence area itself is easily accessible from both LaVerkin and Hurricane.

Dramatic Beauty and a Rich History. The Confluence of the Virgin River with Ash and LaVerkin Creeks occurs in a unique and dramatic canyon of cottonwood and willow framed by black basalt cliffs. Cindercone and sandstone hill stand juxtaposed in tribute

to the powerful forces of the Hurricane Fault which shaped the Hurricane Valley many thousands of years ago. Petroglyphs carved into the lava rock document the prehistoric significance of the site, and it is the documented site where the Escalante Expedition crossed the Virgin River in 1776. The parcel lends itself to educational programming opportunities which highlight geology, history, and riparian biology.

Critical Habitat. The confluence feeds fresh creek water into the mineral rich river below Pah Tempe Hot Springs, providing critical habitat to endangered and threatened fish species including the Woundfin, Virgin River Chub, and Virgin Spinedace. Thick stands of cottonwood and willow provide habitat for native bird species such as the endangered Southwest Willow Flycatcher. The western boundaries of the project are contiguous with Washington County's Red Cliffs Desert Reserve established by a habitat conservation plan for the desert tortoise. Conservation of the property complements the goals of the Virgin River Management Plan.

Public Recreation. The project secures easy access to the river from both the north and south–the only gentle breaks in the canyon rim for miles either up or down steam. The local communities of Hurricane and LaVerkin support the preservation of this unique open space for public recreational use in a manner which is compatible with habitat preservation.

A Window of Opportunity. The property is currently for sale. An opportunity exists to secure this dramatic area as a regional park. The landowners have been willing to work toward this sale, but they are both anxious to finalize terms.

LWCF monies matched with other private and public funds would make it possible to purchase this irreplaceable property. We greatly appreciate your help and assistance with this project and look forward to an opportunity to give you a tour of the site.

Sincerely,

Lorinda Rose

Lorinda Rose
Executive Director

enclosures

cc: Michael Leavitt, Governor, State of Utah
Kathleen Clarke, Director, UDNR
Washington County Commission
Ron Thompson, WCWCD
Doug Garner, Mayor, Hurricane City
Doug Wilson, Mayor, LaVerkin Town

State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WILDLIFE RESOURCES

Michael O. Leavitt
Governor
Kathleen Clarke
Executive Director
John Kimball
Division Director

1594 West North Temple, Suite 2110
PO Box 146301
Salt Lake City, Utah 84114-6301
801-538-4700
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MAR 05 1999

March 1, 1999

Congressman James V. Hansen
1017 Federal Bldg.
324 25th Street
Ogden, UT 84401

Dear Congressman Hansen,

Thank you for the opportunity to talk with you this morning about House Bill 701 and Senate Bill 25, proposed OCS legislation recently introduced on the House and Senate floors. Both bills would dedicate a percentage of federal offshore oil and gas revenues to the states for wildlife conservation, parks and recreation development.

Under HB 701, the Conservation and Reinvestment Act (CARA), Utah would receive between $4 and $6 million annually. The money would be shared by the divisions of Wildlife Resources and Parks and Recreation to fund critical wildlife conservation and education programs (Title III), parks development (Title II) and related outdoor recreation programs throughout the state.

Original House sponsors include Congressmen Don Young (R - Alaska), John Dingell (D-MI), Billy Tauzin (R-LA), Chris John (D-LA) and Richard Baker (R-LA). Original Senate sponsors include Mary Landrieu (D-LA), Frank Murkowski (R-AK), Trent Lott (R-MS), and John Breaux (D-LA).

CARA would mean a lot for Utah. It would provide funding to address nongame species issues in our state. The money could be used to preserve critical habitat for threatened or endangered species and to conduct badly needed cooperative research and population monitoring studies. Today, fewer than 70 of Utah's over 700 resident wildlife species have a steady, reliable funding base to support their management. CARA should be considered a conservation milestone for maintaining wildlife diversity and keeping many species off the endangered species list.

Under Title III of the proposed new legislation, funds would be directed to the states to help conserve wildlife populations and their habitats and to provide more opportunities for wildlife education and recreation. Some examples are: development of watchable wildlife sites, parks, nature centers and trails; grants to local communities for outdoor events and festivals celebrating their natural heritage and indigenous wildlife while building local economies; habitat acquisition, enhancement and conservation projects; biological studies of rare and sensitive wildlife species; and public wildlife education programs.

Passage of CARA would, for the first time, mean funding and development of family-oriented wildlife recreation opportunities in urban areas and throughout the state and nation, without diminishing our precious wildlife resources.

A 1986 survey conducted by sociologists at Utah State University showed that Utahns were highly supportive of funding programs to manage for wildlife diversity. Based on the survey, our citizens overwhelmingly preferred having these programs paid for by assessments on energy development.

People and wildlife share common ground. Taking conservation actions on behalf of wildlife will provide countless hours of enjoyment on Utah waterways, parks and other lands. While outdoor and wildlife-related recreation contribute substantially to Utah's economy, such activities may be the key to economic growth in many rural Utah counties. Without funding for wildlife and open space, we cannot sustain the vital industry of nature tourism.

While we cannot replenish the Earth's oil supply, we can reinvest in natural resources by using this revenue to fund wildlife conservation, conservation education, and wildlife-dependent recreation. This is not a new concept. In fact, the Land and Water Conservation Fund Act is based on this principle by authorizing Congress to annually appropriate funds from offshore oil and gas revenues.

CARA makes sense. It's an innovative, practical approach to conserving wildlife for the future. Congressman Hansen, Utahns are depending on you. Your efforts on behalf of this legislation will pay great dividends for wildlife conservation and public recreation in Utah and throughout the nation for generations to come.

Sincerely,

John Kimball

John Kimball
Director

cc: Governor Leavitt
Congressman Regula
Kathleen Clarke

JK\sp



Sally S. Cunningham
Executive Director
National Council of Youth Sports
116 First Terrace, Suite 709
Palm Beach Gardens, FL 33418

Telephone: 561-625-1197
Facsimile: 561-625-1194
E-mail: youthspts@aol.com
Website: www.ncys.org

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WLRutledge Associates
National Amateur Baseball Federation

Vice President
Ray Thompsett
Sidekicks

Secretary
David Patrick
Bowling, Inc.

Treasurer
Abraham Key
Pony Baseball/Softball

Director
Jon Butler
Pop Warner Little Scholars

Director
Kelly Hill
College Bound Student-Athletes

Director
Larry Landolt
USSSA - Basketball

The National Council of Youth Sports (NCYS) is a multi-sport corporation established to foster the continued education of youth sports administrators, and to support the growth and development of youth through participation in organized youth sports.

May 10, 1999

The Honorable Jim Hansen
United States House of Representatives
814 O'Neil Building
Washington, D.C. 20515

Dear Senator Hansen:

The National Council of Youth Sports (NCYS) expresses its thanks and appreciation to Alan Freemyer for his time and talent when he met with several of our national Board of Directors Tuesday, April 27th.

The National Council of Youth Sports (NCYS) is a multi-sport corporation established to strengthen the performance of youth sport administrators through education, to advocate the values of youth sports, and to support the growth and development of youth through participation in organized youth sports. We represent more than 45 million youth participating in organized sports programs. Our members comprise the who's who of the youth sports industry.

NCYS plays a significant role that reaches deep into the industry. The impact extends to facility and land usage, lifetime health and fitness, sporting goods safety, risk management training for coaches and volunteers, sport and tort liability, and physical education. With 97% of the youth organizations conducting outdoor programs, NCYS identifies a growing need for advocacy for "open space" recreation facilities.

We appreciate your support of the Land and Water Conservation Fund (LWCF), the Urban Park and Recreation Recovery Program (UPARR), CARA, and PEP. Children in cities need safe green spaces to play in order to stay out of trouble and prevent crime. Whether it is a national park where kids receive their first taste of the great outdoors or it is a youth sports field that taught the importance of sportsmanship, or a neighborhood playground where lifelong friendships were formed. LWCF sites preserve the past, protect our future, and end enhance the quality of life for all Americans.

NCYS has the ability to reach deep into the youth sports grassroots market. **Please consider the National Council of Youth Sports as a resource base for research on these and other youth-related issues.** I have enclosed a brochure for your perusal. Thank you again for your support of land and water conservation, recreational opportunities, and cultural preservation.

Respectfully,

Sally S. Cunningham
Executive Director

NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF PARKS AND RECREATION



JAMES B. HUNT JR.
GOVERNOR

WAYNE MCDEVITT
SECRETARY

DR. PHILIP K. MCKNELLY
DIRECTOR

May 7, 1999

The Honorable Don Young
2111 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Young:

As chairman of the North Carolina Parks and Recreation Authority, I wanted to call your attention to several bills introduced in Congress to revitalize one of the most significant conservation and environmental programs in our nation's history, the Land and Water Conservation Fund (LWCF) program. The Parks and Recreation Authority is an eleven-member board that administer North Carolina's Parks and Recreation Trust Fund and advises the Secretary of the Department of Environment and Natural Resources on issues related to parks and recreation. The Authority was created by the North Carolina General Assembly and its members are appointed by the Governor, the Speaker of the North Carolina House of Representatives and the President Pro Tempore of the North Carolina Senate.

We are especially interested in how these bills address the state-side of the LWCF program, which provides matching grants to state and local governments for the acquisition and development of public park and recreation areas.

The bills include: H.R. 701 (Young and Dingell), S. 25 (Landrieu and Murkowski), H.R. 798 (Miller)/S. 446 (Boxer), Lands Legacy Initiative (Clinton Administration), S. 532 (Feinstein), and H.R. 1118 (Campbell). All of these bills propose the use of Outer Continental Shelf (OCS) revenues to address LWCF revitalization and other issues.

When the LWCF was created over thirty years ago, it was based on a simple principle. When the natural resources of the United States are used, the revenue from the sale of those nonrenewable resources(OCS) should be available to protect other natural resources for the benefit of future generations of Americans. In recent years, this promise to Americans has not be kept as these revenues have routinely been diverted to other purposes.. Currently, several leading members of Congress have introduced bills to recognize the critical need to invest significantly in public recreation and parks by legislating predictable sources of revenue.

On behalf of the Parks and Recreation Authority and the citizens of our great state, we are requesting your co-sponsorship and active support of legislation to reinstate the original goal of LWCF. Such legislation must incorporate the following principles:

P.O. BOX 27687, RALEIGH NC 27611-7687 PHONE 919-733-4181 FAX 919-715-3085
AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER - 50% RECYCLED/10% POST-CONSUMER PAPER

- The creation of a full and permanent funding source.
- Equal distribution of the monies between federal and state programs.
- Allow state and local priority for projects to be established at the state level according to the funding formula established by the Land and Water Conservation Fund Act of 1964.
- Funds should be available for planning, land acquisition, construction and renovation purposes.
- Property purchased or developed through the program should remain in outdoor recreation use in perpetuity.
- State and local governments should match federal grants with funds of at lease equal value.
- Companion programs designed to mitigate the impacts of outer continental shelf activity, reinvest in recreation activities in densely populated urban areas, and support the health and diversity of wildlife habitat should compliment the mission of LWCF.

Public access to recreation resources depends on providing a network of federal, state and locally managed public recreation resources. State and local agencies are the principle public providers and efficient partners to provide accessible and affordable recreation opportunities aiding personal health, social growth and environmental education.

We respectfully request your support.

Sincerely,

Jonathan B. Howes
Chairman
Parks and Recreation Authority

International Association of Fish and Wildlife Agencies

Hall of the States, 444 North Capitol Street, NW, Suite 544, Washington, DC 20001
Telephone (202) 624-7890 ♦ Fax (202) 624-7891 ♦ E-mail: iafwa@sso.org ♦ Web Page: www.sso.org/iafwa

President	*Executive Vice President*	*Secretary-Treasurer*	*Vice-President*
Roger Holmes	R. Max Peterson	C. Thomas Bennett	David Waller
Minnesota		Kentucky	Georgia

May 10, 1999

The Honorable James V. Hansen
U.S. House of Representatives
242 Cannon House Office Building
Washington DC 20515-4401

Dear Representative Hansen:

We write to urge your expeditious and favorable consideration of cosponsoring the Conservation and Reinvestment Act of 1999 from Chairman Young (AK) and Cong. Dingell (MI) (HR701) and Chairman Murkowski (AK) and Sen. Landrieu (LA) (S25). The fish and wildlife conservation community recognizes that this is the most significant wildlife conservation funding initiative in the last 50 years. Through your support and efforts we can get this bill to the President for signature by the end of this year.

The Conservation and Reinvestment Act is based on the very successful programs under the Pittman-Robertson and Dingell-Johnson/Wallop-Breaux Acts. As you know, through those Acts and state license fees, hunters and anglers have over the years provided most of the funding for state fish and wildlife agencies. CARA will provide additional funding to State fish and wildlife agencies so they can continue the successes enjoyed under those acts (for game and sportfish) and broaden the programs to include other species such as bluebirds, plovers, sandpipers, warblers, bog turtles, and many species of declining frogs and other amphibians.

As you know, it is from this universe of the so-called nongame species that most endangered species arise, with all the social and economic disruption that such listing can entail. We must shift our focus from the crisis management of endangered species to a preventive conservation approach to work with landowners in a user-friendly, incentive-based, non-regulatory manner relying on state and local decision-making in order to be successful. Responding to early warning signs of decline in these nongame species by addressing life needs and habitat requirements through these cooperative programs with private landowners will not only conserve species but also help avoid the social and economic disruption associated with listing species as threatened or endangered. This preventative conservation approach just makes good biological sense and good economic sense.

Executive Committee:

Arnold Boer, New Brunswick
Patrick Graham (Chair), Montana
Allan L. Egbert, Florida
Robert McDowell (Vice-Chair), New Jersey
Wayne MacCallum, Massachusetts
Brent Manning, Illinois
Andrew T. Manus, Delaware
George E. Meyer, Wisconsin

Representing Fish and Wildlife Agencies since 1902

CARA will also provide for enhanced state-based funding for conservation education and wildlife associated recreation activities. Funding state conservation, recreation and education efforts together makes good economic and social sense. To sustain growth in nature-based tourism and outdoor recreation requires an investment in our nation's wildlife and land and water base. Particularly, opportunities close to urban and rural communities for fishing, wildlife viewing, hunting, hiking and outdoor recreation programs are becoming increasingly important for families and communities. Enhanced conservation efforts will facilitate better-informed citizens and assure a high quality of life for people and wildlife.

Let's continue to demonstrate why the sportsmen and women of this Nation are the leaders in fish and wildlife conservation – please cosponsor HR701 or S25.

Sincerely,

Roger Holmes
President

GREGORY S BELL
Mayor

MAX FORBUSH
City Manager

DONA SCHARP
Finance Director/Recorder

LYNETTE BINGHAM
Treasurer

Historic beginnings

Farmington City
1847

130 North Main
P. O. Box 160
Farmington, Utah 84025-0160
Telephone (801) 451-2383

PATRICIA N. ACHTER
DAVID J. DIXON
DAVID M. CONNORS
GARY E. ELLIOT
LARRY W. HAUGEN
Council Members

April 29, 1999

Congressman James Hansen
2466 Rayburn Building
Washington, D.C. 20510

Re: H.R. 701 "The Conservation and Reinvestment Act of 1999.

Dear Congressman Hansen:

Representatives John Dingell and Don Young have co-sponsored the above-referenced bill. Farmington City is soliciting your support of this bill as it moves forward through the House of Representatives.

A copy of the letter that was sent to the Congressmen is enclosed for your information. Thank you for your consideration of this important issue.

Sincerely,

FARMINGTON CITY CORPORATION

Gregory S Bell, Mayor

GSB/ml

Enclosure

Historic beginnings

GREGORY S BELL
Mayor

MAX FORBUSH
City Manager

DONA SCHARP
Finance Director/Recorder

LYNETTE BINGHAM
Treasurer

Farmington City
1847

130 North Main
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Telephone (801) 451-2383

PATRICIA N. ACHTER
DAVID J. DIXON
DAVID M. CONNORS
GARY E. ELLIOTT
LARRY W. HAUGEN
Council Members

April 29, 1999

Representative John Dingell
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Dingell:

Thank you for introducing H.R. 701, "The Conservation and Reinvestment Act of 1999". As this bill moves forward, please ensure full funding for the Land and Water Conservation Fund Stateside Program. Stateside LWCF is important to Farmington City because there is a great need for public outdoor recreation areas.

Farmington City is a fast growing community which is bordered by mountains to the east and the Great Salt Lake to the west. It is extremely important that open space be retained for use by the public. Because Farmington is a bedroom community of Salt Lake City and is mainly a residential community, our tax base is limited. The matching funds provided through the Land and Water Conservation Fund Act grant program will enable us to obtain land to be used for parks and open space in our rapidly developing community.

Sincerely,

FARMINGTON CITY CORPORATION

Gregory S Bell, Mayor

GSB/ml

NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
11250 WAPLES MILL ROAD
FAIRFAX,VA 22030-7400

OFFICE OF THE
EXECUTIVE DIRECTOR

JAMES JAY BAKER

May 5, 1999

The Honorable James V. Hansen
U.S. House of Representatives
242 Cannon House Office Building
Washington, DC 20515

Dear Congressman Hansen:

Because you are a member of the Congressional Sportsmen's Caucus, I want to take this opportunity to inform you that the NRA, on behalf of its hunter members, has taken a position in support of H.R. 701, the Conservation and Reinvestment Act. Our position centers on Title III -- Wildlife Conservation and Restoration.

Title III amends the Federal Aid in Wildlife Restoration Act, commonly known as the Pittman-Robertson Act. It creates a subaccount to receive outer continental shelf (OCS) oil and gas revenue earmarked for funding state-initiated wildlife projects. Pittman-Robertson is a 62-year old law whose concept was created and supported by sportsmen who willingly accepted levying of excise taxes on sporting equipment to provide a stable source of critically needed funds for wildlife.

Title III is important to us for what it does not do. It does not impose new excise taxes. In recent years the states have been calling for additional funds in order to keep pace with increased workloads to meet the needs of nongame and threatened and endangered species. The NRA has long acknowledged the states' need for a new funding source; additional funding benefits hunters and non-hunters alike. However, new excise taxes were the foundation of the state-driven "Teaming with Wildlife" concept. The Teaming concept was designed to tap the resources of the public who benefit from healthy and diverse wildlife populations, but who do not now pay. The flaw in the approach was that the excise taxes would have fallen equally upon sportsmen, our members, who have carried the lion share of wildlife conservation throughout this century. By tapping into OCS receipts, H.R. 701 spreads the burden and responsibility for wildlife conservation more evenly. Additional provisions of Title III have also resolved other concerns that the NRA had with the Teaming concept.

The NRA respectfully requests that you lend your support to this legislation by becoming a cosponsor. You may be hesitant because of opposition expressed by those who are concerned over a perceived loss of property rights under Title II that provides funds for federal and state

land acquisition. We likewise are sensitive to private property rights concerns as we are to infringement of any and all rights protected by the Constitution. However, we believe the sponsors have been sensitive to those concerns by incorporating in H.R. 701 protections against potential pressures by the federal government toward owners of property within units of federal land systems. I am sure the sponsors are open to further dialogue on this subject.

We submitted a written statement for the hearing record supporting the legislation and would be happy to provide you with a copy. Please contact Susan Lamson, our Director of Conservation, Wildlife andNatural Resources, at 703-267-1541 if you would like a copy or for further information on this topic.

Sincerely,



James Jay Baker
Executive Director
NRA Institute for Legislative Action

STATEMENT OF W. WILLIAM WEEKS
Executive Vice-President of The Nature Conservancy

Mr. Chairman, and members of the Committee, I appreciate the opportunity to submit this testimony for the record on both H.R. 701, the Conservation and Reinvestment Act of 1999, and H.R. 798, the Resources 2000 Act.

The Nature Conservancy is an international, non-profit organization dedicated to the conservation of biological diversity. Our mission is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. The Conservancy has more than 900,000 individual members and over 1,500 corporate associates. We currently have programs in all 50 states and in 17 nations. To date our organization has protected more than 10.5 million acres in the 50 states and Canada, and has helped local partner organizations preserve millions of acres overseas. The Conservancy owns more than 1,600 preserves – the largest private system of nature sanctuaries in the world. The Conservancy's conservation programs are characterized by sound science and strong partnerships with public and private landowners. We are dedicated to achieving tangible and lasting conservation results in all of the many locations at which we work.

We are now cooperating with our partners to develop a "conservation blueprint" that will identify the sites, at scales from landscape to nature preserve, that will be required to conserve -- ecoregion by ecoregion -- the nation's full array of plants, animals and natural communities. We and all our partners, who are daily working to conserve the nation's natural treasures, will be far better able to accomplish our common goals with the increased resources envisioned in legislation before this Committee.

We thank Chairman Young and Representative Miller for their leadership in proposing substantive reform of the Land and Water Conservation Fund and other new conservation programs. The President's Lands Legacy Initiative is a complementary, far-reaching design that would also provide much needed federal funds for biodiversity conservation.

Congress and the President have an historic opportunity to work together to achieve the non-partisan goal of protecting the nation's biodiversity, natural areas and open spaces. There is an enormous demand and need for the financial resources these bills would provide. Throughout the nation, voters are approving local ballot measures to increase public investment in parks, natural areas, critical wildlife habitat and open space. But these local efforts need to be supplemented with an enhanced national commitment.

Earlier this month, we had the honor of presenting The Nature Conservancy's "1998 Conservation Leadership in Government Award" to Governor Christine Todd Whitman for her leadership on a state-wide ballot campaign that secured $1.85 billion to protect 1,000,000 acres of open space in New Jersey. Last November, voters endorsed 84 percent of 148 state and local open space ballot measures in the United States, generating

leave a natural legacy for future generations.

This opportunity comes at a time of great urgency. At least 110 species of plants and animals are now extinct in the United States, with another 416 missing and feared extinct. Seven percent of plant and animal species in the United States are classified as critically imperiled, 9 percent as imperiled, and 15 percent are considered vulnerable.[1] Aquatic animals are even more imperiled than terrestrial species. The plight of salmon in the Northwest and New England is widely recognized. It is less well known that two-thirds of the nation's freshwater mussels are at risk of extinction, and nearly 1 in 10 species may already be extinct. Forty percent of the nation's freshwater fishes and amphibians are at risk of extinction, as are one-half of crayfish species.[2] There has never been a more important time for Congress to attend to the critical federal and state programs that conserve the nation's legacy of biodiversity.

The Conservancy pledges its assistance to the Committee as it considers new proposals for increasing funding for conservation areas and programs.

The bills before the Committee approach the goal of providing significant new investments in natural resource protection in different ways. The Nature Conservancy believes the following elements and principles ought to guide whatever legislation the Committee ultimately adopts:

1. FULL AND PERMANENT FUNDING OF THE LAND AND WATER CONSERVATION FUND ("LWCF"):

The LWCF is one of the nation's most important conservation achievements. The principle of investing proceeds from a non-renewable resource, offshore oil and gas reserves, into permanent land and water resource conservation is an outstanding expression of our nation's stewardship commitment. This Committee will make a lasting and historic contribution by creating a permanent funding stream for both the state and federal sides of the LWCF at their fully authorized level of $900 million. Even at this level of LWCF funding, however, long-term conservation of the nation's biodiversity and natural areas will also require significant additional investments envisioned in the other proposals before the Committee.

2. EQUITABLE TREATMENT FOR STATE AND FEDERAL PROGRAMS:

In recent years, the federal government has ceased appropriating the state portion of the Land and Water Conservation Fund. The Conservancy favors restoration of this federal funding for state conservation action. Recent ballot measure results evidence the substantial need and demand in many states for land acquisition, conservation and

[1] 1997 Species Report Card: The State of U.S. Plants and Animals, The Nature Conservancy (1997).
[2] Rivers of Life: Critical Watersheds for Protecting Freshwater Biodiversity, The Nature Conservancy (1998).

recreation purposes. Enormous good can come from leveraging state commitments with federal matching funds.

3. **INCREASD FEDERAL SUPPORT FOR STATE FISH AND WILDLIFE AND PLANT PROGRAMS, INCLUDING STATE NATURAL HERITAGE PROGRAMS:**

State programs to support biodiversity conservation programs have been chronically underfunded. The Conservancy endorses increased funding for state fish and wildlife and plant programs. New dollars should target efforts to conserve native and nongame fish and wildlife, native plants and natural communities. Legislation must also explicitly provide funding for state natural heritage programs. These programs are recognized leaders in the conservation of native fish and wildlife, native plants and natural communities. Nearly two-thirds of state natural heritage programs, including successful ones in New Jersey, Pennsylvania, Minnesota, Colorado, Ohio and Florida, are not part of state fish and wildlife agencies, and would not be assured funding in proposals now before the Congress. The Committee should also ensure that new funds support **new** investments in habitat and stewardship rather than replacing existing operating funds.

4. **INCREASED SUPPORT FOR INCENTIVE-BASED, NON-REGULATORY PROGRAMS THAT ASSIST PRIVATE LANDOWNERS IN CONSERVING ENDANGERED SPECIES:**

The Nature Conservancy strongly supports dedicated funding to enhance incentive-based, non-regulatory programs for private landowners to voluntarily assist in endangered and threatened species recovery. The Conservancy, along with private and public partners in the Natural Community Conservation Planning initiative, is using federal and state dollars to conserve habitat for nearly 100 species and more than two dozen natural communities in five southern California counties. By voluntarily joining this program, landowners can achieve greater certainty with respect to potential development uses of land, as well as avoiding unexpected consequences of future species listings under the Endangered Species Act.

The Administration's $80 million request for the U.S. Fish and Wildlife Service's Cooperative Endangered Species Fund reflects the critical importance and unmet public funding needs of programs such as this.

5. **INCREASED SUPPORT FOR NORTH AMERICAN WETLANDS CONSERVATION ACT:**

The North American Wetlands Conservation Act has provided significant federal cost-share funding for state fish and wildlife agencies and private organizations to conserve, restore and enhance critical wildlife habitat. The Committee should ensure that funding mechanisms, such as directing interest that accrues from the Pittman-Robertson Act, benefit the purposes of the North American Wetlands Conservation Act.

6. REINVESTMENT OF OUTER CONTINENTAL SHELF ("OCS") REVENUES IN COASTAL STATES:

Coastal states, particularly Louisiana, have suffered significant environmental damage as the result of OCS activities. A portion of OCS revenues should be dedicated to environmental restoration programs in coastal states. We welcome recent statements by the Chairman and other leading sponsors of H.R. 701 that they will work with members of the environmental community to ensure that H.R. 701 does not create incentives for communities to rescind existing moratoria on OCS activities.

7. INCREASED SUPPORT FOR COASTAL AND MARINE CONSERVATION:

Restoring and protecting coastal and marine ecosystems is a critically important conservation priority. Many of our fisheries are near collapse, pollution is creating off-shore "dead zones" and coral bleaching and disease are increasingly common. Our nation's coastal areas and oceans contain biodiversity rivaling tropical rain forests, yet we as a nation have focused little attention on their conservation. We cannot simply purchase a section of ocean and set it aside for conservation purposes. New permanent funding should invest in the range of actions necessary for protecting marine habitats, including conservation, restoration and acquisition of critical coastal areas, water quality improvements and management of living marine resources and habitat. In the Florida Keys, for example, the Conservancy's Florida Bay Watch program has documented increased nutrients in near shore waters, highlighting the need to upgrade and retrofit waste and stormwater systems.

8. INCREASED SUPPORT FOR AGRICULTURAL, FOREST AND OPEN SPACE PROTECTION:

Matching grants for agricultural, forest and open space conservation, like state appropriations from LWCF, would increase the conservation effect of state investments and federal initiatives such as the Forest Legacy program. The Conservancy is working with farmers along New York's Fish Creek and Illinois' Mackinaw River to address resource conservation issues while enhancing the economic viability of sustainable farming operations. Increased opportunities for conservation easements could enable farmers, ranchers, and forest owners to maintain sustainable economic uses while providing important public conservation benefits. Such programs would also help mitigate the threat to biodiversity caused by habitat fragmentation, an increasing and pervasive threat to biodiversity.

9. DEDICATED FUNDING FOR URBAN PARKS:

Although the Conservancy's mission focus is biodiversity conservation, we join and support our colleagues who seek dedicated funding for urban parks through a revitalized Urban Park and Recreation Recovery program. Creation of a separate dedicated funding source would ensure that urban park funding does not compete with the state and federal land acquisition programs supported by the LWCF.

10. DETERMINATION OF LWCF PRIORITIES WITHOUT GEOGRAPHIC OR OTHER STATUTORY RESTRICTIONS:

LWCF funding should be available for acquisition of high-priority lands without arbitrary geographically-based limitations on location or land management agency. Restricting purchases to inholdings or Congressionally designated areas could sometimes direct federal attention and funding away from the most important and significant conservation opportunities for protection of the nation's biodiversity.

11. APPROVAL OF LWCF ACQUISITIONS IN AN EXPEDITIOUS MANNER:

The Congress should not require approval of land acquisitions by multiple committees. Land acquisition programs should be designed to minimize the risk of increased costs and lost conservation opportunities to the people of the United States. They should also avoid unreasonable burdens and delays on private land owners who wish to sell their land to government.

12. BUDGET ISSUES:

The funding levels called for in these bills will not be achieved without changes to the existing budget caps. Although we understand that this Committee does not have jurisdiction over the budget process, we urge members of the Committee to raise these issues with the leadership of the House and members of the Budget Committee. This Congress will fail to realize the full promise of the important legislative proposals under consideration by this Committee if the Budget Committee fails to allocate, or the Appropriations Committee fails to appropriate, the necessary funds.

CONCLUSION

The Nature Conservancy wishes to express its gratitude to Representatives Young, Miller and the cosponsors of their respective legislative proposals for bringing historic legislation to the Committee. In addition, numerous state and local government agencies and non-governmental organizations deserve enormous credit for developing broad-based public support for land conservation and biodiversity. This Committee can respond to that support and forge a lasting legacy by passing legislation that incorporates the principles described above.

The Nature Conservancy welcomes the opportunity to work with the Committee as it crafts legislation that will be signed into law.

A government which must come to the citizens for its' operating budget is a government which must listen to what the citizens have to say. It followes then ,that government in a free society, derives its' powers from the consent of the governed.

The united states were founded on this very principle. When the common fund lands, those lands generally to the west of the original thirteen states and east of the Mississippi river, were conveyed to the federal government by the states after the revolutionary war, those lands were conveyed with strict restraints on their future disposition. Congress could sell those lands, only to actual settlers. The proceeds from those sales could be used for one primary purpose; to retire the revolutionary war debt. Congress was strictly prohibited by the articles of conveyance from retaining those lands as a federal asset or from using those lands as a collateral base to secure a perpetual debt.

The European bond holders who had financed the revolutionary war were generally in favor of a policy which would secure the debt by a mortgage on the western lands and resources of the new United States. This had been a practice of long standing in Europe. It gave European banks and financiers considerable control over the nations and peoples whose lands and resources they had thus encumbered. A paramount concern of the people of the new nation, was to avoid being caught up in the political and military conflicts of Europe which were largely caused by nations borrowing against their land and natural resources to wage war. Bankers could finance both sides of a conflict. Which ever nation was victorious could find itself owing both debts plus interest on the debt. If the debt was not paid the creditor had access to the wealth of natural resources which secured the debt. If a nation resisted the creditors access to its mines, timber, crop lands, grazing lands and fisheries, the creditor could finance another indebted nation to make war on the recalcitrant mortgagee.

The Nature Conservancy

Schedule of Expenditures of Federal Awards
For the Year Ended June 30, 1998

Federal Agency and Pass-through Entity	Federal Agency CFDA Number	Grant Identification Number	Federal Expenditur
Environmental Protection Agency (cont.)			
IL Environmental Protection Agency		95-01	$ 192,227
CA State Water Resources Control Board		6-069-255-0	92,393
TN Dept. of Agriculture		GR-96-0758-00	62,120
		0001-CLINCH-0001	11,800
ID Dept. of Fish and Game		94-K493Y-12-5	52,120
NY Dept. of Environmental Conservation		C003620	46,924
MI Dept. of Environmental Quality (MIDEQ)		No #	35,138
KY Div. of Water		C9994861-97	29,451
University of Rhode Island (URI)		91896/530817	23,106
IN Dept. of Environmental Management		C9995008-97-0	22,221
PA Dept. of Conservation and Natural Resources		SP 292048	21,783
PA Dept. of Environmental Resources		CD-993246-01-0	21,228
NC Dept. of Environment, Health and Natural Resources		J 6027	15,000
IL Conservation Foundation		ILCF ATLAS	11,307
KY Dept. of Environmental Protection		C999-4339-93-0	8,745
RI Dept of Environmental Management		CD991519-01-0	8,471
MI Dept. of Natural Resources (MIDNR)		CRITWET-95	5,978
		751P8002578	504
VT Dept. of Fish & Wildlife		FW98	3,458
Western PA Conservancy		03-ICC-93-023	3,048
University of New Mexico (UNM)		3-46241-7810	17
Environmental Protection Agency Total			2,276,721
National Science Foundation	47		
		DEB-9219951	2,581
National Science Foundation Total			2,581
Tennessee Valley Authority	62		
		TV-93560V	19,203
Tennessee Valley Authority Total			19,203
U.S. Department of Agriculture	10		
University of Georgia		RD-309-019/2401494	83,461
		2031-94-3	3,191
U.S. Forest Service		96-CCS-211	143,965
		8-97-NR-PA-1	55,724
		97-CCS-230	38,327
		28-C4-856	34,053
		NA-96-0170	32,256
		08-98-NR-PA-01	30,498
		CCSA-6-97-20-016	23,471
		CCS-02-02-4060-96	18,893
		COMANCHE RNA	17,505

The accompanying notes are an integral part of this schedule.

The Nature Conservancy

Schedule of Expenditures of Federal Awards
For the Year Ended June 30, 1998

Federal Agency and Pass-through Entity	Federal Agency CFDA Number	Grant Identification Number	Federal Expenditures
U.S. Department of Agriculture (cont.)			
U.S. Forest Service (cont.)		28-CCS3-003	$ 16,364
		94-6-12-94	15,843
		1102-0001-93-011	15,821
		6-94-20-035 A1	15,760
		2112	13,705
		113-10-005	13,701
		08-97-50-G-55	12,623
		KNF 97-20	11,502
		23-95-54	11,365
		23-947	10,901
		19-1151	10,780
		06-93-04-033A1	9,823
		CSA-5-96-09-026	9,670
		INT-96096-RJVA	9,310
		CCS 97-06-04-108	8,847
		53-0343-5-00021	8,841
		1102-1410-96-17	8,634
		96-CCS-1037	8,413
		CCS-11020797-12	8,277
		97-06-11-11	7,500
		INT-97049-CCSA	7,400
		INT-94983-RJVA A1-A2	7,332
		CCS-98-06-12-015	6,541
		CCS6-16-97-396	6,486
		0304-96-D17-368	6,068
		11021410952	5,889
		CCSA-6-97-20-024	5,865
		11-2-4-Z1-95	5,853
		R9-WM-97-017	5,414
		8-95-FWR-CCS-1	4,156
		CCS6-98-18-9043	3,305
		CCS-11020797-30	2,614
		CCS 6-16-98497	2,383
		97-CCS-06-01-26	2,093
		08-97-08-PA-04	1,323
		NO AGREEM NO. R716	1,041
		9-5-119	897
		17-CCS-97-050	877
		97-CCS-029	716
		INT-97036-CCSA	456
		1999 CWPD	311
		SRS 33-G-97-109	260

The accompanying notes are an integral part of this schedule.

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The Nature Conservancy

Schedule of Expenditures of Federal Awards
For the Year Ended June 30, 1998

Federal Agency and Pass-through Entity	Federal Agency CFDA Number	Grant Identification Number	Federal Expenditu
U.S. Department of Agriculture (cont.)			
U.S. Forest Service (cont.)		3-CC-95-23	$ 22
		95-CCS-00-000085-001	21
		6-090250-CCS-08	6
		95-95CC27	2
Natural Resources Conservation Service		68-6526-7-R2	13,98
		65-9104-7-70	3,31
		68-6322-5-84	1,77
Great Outdoors Co.		8000	170,00
IL Conservation Foundation		No #	222,97
		97.1Y	55,59
		CW2n	10,97
		97.1D	8,35
		97.1C	4,41
		97.1S	2,14
MIDNR		FSP-97-01	5,64
U.S. Department of Agriculture Total			1,285,96
U.S. Department of Commerce	11		
ME Dept. of Conservation		04A797355	27,07
		04A1297323	24,761
MIDEQ/Coastal Zone Mgmt		97-309-20	22,597
		90-309-25	9,68
		96-62-17-2	1,22
U.S. Department of Commerce Total			85,34
U.S. Department of Defense	12		
		DPW-ENV 97-A-0001	1,283,82
		OM95 244	252,71
		DAMD17-98-2-8006	226,388
		Z172040	183,404
		F0865096C0069	77,25
		N62470-95-LT-000719	76,31
		DACA87-98-H-0002	60,23
		F08635-94-2-0001	50,17
		M67004-91-D-0010	46,07
		DAMD17-98-2-8012	39,91
		9296MORD7182	32,44
		N62467-96-RP00177	26,07
		X 985357-01-0	25,63
		DABT5189F1747	19,31
		N62467-95-RP00235	12,97
		N62467-95-RP00236	11,718

The accompanying notes are an integral part of this schedule.

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The Nature Conservancy

Schedule of Expenditures of Federal Awards
For the Year Ended June 30, 1998

Federal Agency and Pass-through Entity	Federal Agency CFDA Number	Grant Identification Number	Federal Expenditures
U.S. Department of Defense (cont.)			
		DAMD17-93-J-3061	$ 8,466
		WPAFB-SJ090ENV384	7,514
		N62467-96-RP00215	7,106
		KPD-BO-7232-0284	5,337
		DAMD17-94-V-4030	4,776
		DACW33-98-M-0310	3,035
		B2-2-8C8G9-B2-GM	2,692
		OM95-218	2,535
		No #	623
Eagan, McAllister Associates, Inc.		95-H026-14	54,373
UNM		W45XMAS525-80978	29,518
		3-48451	11,674
		3-34041	6,054
		3-48541	6,001
		3-49081	3,004
		3-48831	309
		3-45221-7810	273
Spectrum Associates		93-677-RS	1,096
U.S. Department of Defense Total			2,580,825
U.S. Department of Energy	81		
		DE-FG06-94RL12858	176,015
OR Dept. of Fish and Wildlife		DE-B779-89BP97701	17,148
U.S. Department of Energy Total			193,163
U.S. Department of the Interior	15		
Bureau of Land Management		1422E930A960015	59,583
		1422G910A960011	58,127
		K910-A4-0011	29,927
		SAN MIGUEL	17,028
		1422P850A70011	13,541
		NM-060-06-1150-03	8,254
		1422H110-P97-1055	8,017
		1422P52-P4-4835	5,662
		1422E060P960082	4,828
		1442E930A960015	4,275
		4-14-97	3,988
		CO-930-PR8-028	3,903
		1422E070P60058	3,165
		1422E950A10006	2,950
		1422E070P60063	2,553
		1422E060P960084	2,299

The accompanying notes are an integral part of this schedule.

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The Nature Conservancy

Schedule of Expenditures of Federal Awards
For the Year Ended June 30, 1998

Federal Agency and Pass-through Entity	Federal Agency CFDA Number	Grant Identification Number	Federal Expenditures
U.S. Department of the Interior (cont.)			
Bureau of Land Management (cont.)		1422H010P981060	$ 2,036
		1422H100P80503	1,924
		1422 C950A50016	1,698
		1422H020P960047	1,539
		1422E070P60057	1,006
		1422E930-A96-0015	990
		1422E060P50069	532
		1422H090P970164	205
		1422-H030-P96P0052	41
		1422E060P960079	30
Clark County, NV		NV052	14,700
Bureau of Reclamation		1425-97-FC-32-720	149,101
		14258FC1003910	7,987
National Biological Survey		14-48-3-96-XXXX	63,838
		1-48-1-96544	30,678
ME Dept. of Conservation		04A1297163	20,272
UNM		3-47361-7810	22,594
		3-47331-7810	5,731
National Park Service		CA-5000-2-9031	81,848
		1443 CA-3100-9-5001	73,781
		CA5090-6-9004	44,854
		1443-CA-0001-9-6034	35,102
		1443 CA5530 96 001	16,076
		1443PX934097026	8,331
		1600-9-8006	7,695
		CA 1268-2-9011	6,451
		CA 8601-96-011	847
		5000-4-9018/5	784
Appalachian Trail Conference		258-97-1	8,477
HI Cooperative Park Service Unit		PO 9069001	1,243
UNM		3-47471	7,112
U.S. Fish and Wildlife Service		1448-11332-7-G017	1,258,238
		14-48-11332-97-G030	385,540
		14-48-9-96-1203	215,912
		1-48-98210-97-G034	182,273
		1-48-0009-95-1203	127,831
		1-48-5-93-9002	84,458
		1448-98210-97-J039	63,588
		1-48-0003-98-911	61,785
		14-48-11620-97-J243	55,934
		1-16-1-90-946	46,780
		14-48-40181-97-G-099	44,221

The accompanying notes are an integral part of this schedule.

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The Nature Conservancy

Schedule of Expenditures of Federal Awards
For the Year Ended June 30, 1998

Federal Agency and Pass-through Entity	Federal Agency CFDA Number	Grant Identification Number	Federal Expenditure
U.S. Department of the Interior (cont.)			
U.S. Fish and Wildlife Service (cont.)		14-48-9-96-1Z10	$ 43,927
		14-48-98210-97-G084	36,149
		14-48-13410-97-J405	33,736
		14-48-4-95-9178	31,571
		14-48-0005-93-9064	26,877
		1448-4-96-9111	18,956
		14-48-20181-97-G920	13,766
		14-48-0009-94-1Z10	13,563
		14-48-20181-97-G-588	12,021
		14-48-6-95-1153	12,000
		14-48-98210-98-G021	11,373
		14-48-0001-93631	9,586
		14-48-5-95-9012	9,464
		14-48-50181-97-5063	8,647
		14-46-4-90-946	8,400
		AZFO 081297	7,643
		1448-0004-94-947	7,423
		1448-4-94-940	7,076
		1448-4-96-9122	6,836
		14-16-0005-90-9026	5,771
		14-48-0002-94083	5,709
		14-48-0001-93657	5,686
		96-6-11-8	4,544
		14-48-5-95-9101	4,455
		14-48-3-96-1052	4,241
		14-48-40181-97-G-068	4,187
		SE-5-P-9	4,164
		14-48-6-95-949	4,109
		071B4100119	4,064
		1448-2-94-835	3,677
		14-48-30124-8-M0043	3,622
		14-48-40181-97-G-039	3,455
		61130-7-J079	3,164
		No #	3,000
		14-48-0003-97-968	3,000
		1448-1-96-971	2,857
		32720-6-0125	2,822
		14-48-14420-8-J031A	2,711
		110114406	2,477
		14-48-0001-93724	2,335
		14-48-20181-97	1,977
		14-48-3-95-1084	1,855

The accompanying notes are an integral part of this schedule.

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The Nature Conservancy

Schedule of Expenditures of Federal Awards
For the Year Ended June 30, 1998

Federal Agency and Pass-through Entity	Federal Agency CFDA Number	Grant Identification Number	Federal Expenditures
U.S. Department of the Interior (cont.)			
U.S. Fish and Wildlife Service (cont.)		14-48-3-95-1079	$ 1,858
		25517	1,839
		14-48-40181-97-G-047	1,750
		14-48-6-96-3001	1,602
		14-48-60181-98-J380	1,490
		CONTE 3	1,466
		14-48-0003-97-1099	1,230
		1448-4-96-9148	1,127
		14-48-40181-98-G-114	1,124
		1448-4-95-9191	1,124
		1448-4-96-9147	1,063
		1448-00002-95-0#	761
		14-48-6-96-3019	744
		14-48-3-94-1041	636
		14-48-60181-98-J378	632
		1448-2-93-242	589
		14-48-6-96-3021	565
		14-48-0005-94-9102	525
		1448-4-96-9121	461
		14-48-0003-97-1101	388
		14-8-0004-97	303
		14-48-40181-97-G-069	284
		14-48-0005-96-9026	209
		14-48-6-96-3023	164
		14-48-60181-98-J377	155
		14-48-1-9-4652	121
		14-48-3-95-179	119
		14-48-0003-95-994	98
		14-48-11450-97-J209	88
		14-48-0005-94-9070	18
		14-48-10181-97-M329	16
National Fish and Wildlife Foundation		97-58	294,390
		96-236	159,680
		98-067	121,178
		96-064	100,000
		97-207	89,852
		94-62	66,000
		95-082	63,000
		97-128	57,730
		97-127	29,562
		97-153-016	27,221

The accompanying notes are an integral part of this schedule.

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The Nature Conservancy

Schedule of Expenditures of Federal Awards
For the Year Ended June 30, 1998

Federal Agency and Pass-through Entity	Federal Agency CFDA Number	Grant Identification Number	Federal Expenditure
U.S. Department of the Interior (cont.)			
National Fish and Wildlife Foundation (cont.)		97-073-011	$ 23,969
		96-110	22,717
		5-FC-20-11410	19,356
		97-073-033	17,192
		96-066-326	14,387
		97-N14	10,040
		97-59	8,070
		96-25	7,880
		98-022	7,803
		97-032	7,233
		97-115-015	6,579
		98-183	5,568
		97-115-016	3,988
		96-66-307	3,259
		97-073-001	3,031
		97-289	1,993
		97-155-024	1,824
		91-56	1,715
		2-13-98	441
CA Dept. of Fish and Game		94-97	32,000
AL Dept. of Conservation and Natural Resources		95C-CNR-100	1,056
		95C-CNR-103	531
MDNR		751P8002929	13,344
		751P8002355	8,799
		K00P8000183	8,410
		071B4100119	5,220
		R3 ES GRANT	4,247
Lake Heritage Parks Foundation		14-48-9-95-1207	51,924
NH Fish and Game Dept.		020-075-2453-090	6,987
Smith College		636922	1,137
TN Wildlife Resource Agency		FA-97-12222-00	30,735
		FA-6-11801-6-00	21,631
		FA-5-11252-5-00	1,796
NC Dept of Agriculture		C00415	7,742
ND Game & Fish Department		14-48-0006-95-933	5,028
NY Dept. of Environmental Conserv.		C003620	18,202
		ES98NYWAH	240
Geological Survey		14-45-0009-95-0082	50,791
		1434-HQ-97-AGO1779	38,693
		1434-HQ-97-AG-01882	35,308
		14-45-CA03-96-1012	32,442

The accompanying notes are an integral part of this schedule.

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The Nature Conservancy

Schedule of Expenditures of Federal Awards
For the Year Ended June 30, 1998

Federal Agency and Pass-through Entity	Federal Agency CFDA Number	Grant Identification Number	Federal Expenditures
U.S. Department of the Interior (cont.)			
Geological Survey (cont.)		1434-CR-97-AG-00008	$ 30,058
		1434-HQ-97-A6-01760	26,643
CODNR		070397-01	74,029
MDEQ		No #	2,270
U.S. Department of the Interior Total			5,482,683
U.S. Department of Transportation	20		
Federal Highway Administration			
CA Dept. of Transportation		02-0020	200,000
CO Dept. of Transportation		SB CO93-010	111
NJ Dept. of Transportation		ISTEA	7,859
U.S. Department of Transportation Total			207,970
U.S. Agency for International Development	02		
		LAC-A-00-95-00026-00	3,478,74[illegible]
		596-0180-A-00-5125-00	1,437,75[illegible]
		520-0395-A-00-1223-00	558,43[illegible]
		512-784-A-0-4011	507,965
		LAC 0782-A-00-0047-00	254,258
		517-G-00-97-07102-00	121,346
		518-69-A-0-516800	107,243
		524-0314-A-00-3033-0	93,402
		518-A-00-97-00247-00	77,549
		527-341-G-0-1323	22,858
		FAO-A-00-97-00061-00	16,891
		532-0173-C-00-4188	13,619
		FAO-A-00061-00	7,976
		596-0150A-00-0586-00	450
		525-308-G-0-221600	125
International Resources Group, Ltd.		596-180-C-0-6062-0	281,685
World Wildlife Fund, Inc.		N109	84,493
		N112	21,459
U.S. Agency for International Development Total			7,086,306

The accompanying notes are an integral part of this schedule.

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The Nature Conservancy

Schedule of Expenditures of Federal Awards
For the Year Ended June 30, 1998

Federal Agency and Pass-through Entity	Federal Agency CFDA Number	Grant Identification Number	Federal Expenditure
Federal Emergency Management Administration	83		
		FEMA003	$ 53,894
		FEMA001	12,668
Federal Emergency Management Administration Total			66,562
National Aeronautics and Space Administration	43		
		NAG8-1421	16,967
National Aeronautics and Space Administration Total			16,967
Total Expenditures of Federal Awards			$19,304,282

The accompanying notes are an integral part of this schedule.

The Nature Conservancy
Schedule of Expenditures on Fixed Price Federal Agreements
For the Year Ended June 30, 1998

Federal Agency/Pass-Through Entity	Agreement Identifier	Expenditures	Agency Totals	
AID/DOE/SNL	AO-0101	89,819	89,819	USAID
BLM	1422H020-P4-0031	486		
BLM	K910-A4-0011	956		
BLM	1422 C950P50382	149		
BLM	N657-P4-0786	230		
BLM	1422H090-P5-0099	403		
BLM	C950-A5-0016	741		
BLM	1422H010P960037	1,496		
BLM	G910-A1-0004	2,176		
BLM	1422H010P960061	4,440		
BLM	1422H100P60514	4,435		
BLM	1422H120P960055	10,286		
BLM	1422H010P971015	10,598		
BLM	BLM - SNOWY PLOVER '97	11,433		
BLM	1422H010P960055	12,887		
BLM	1422 0950A50016	17,022		
BLM	1422H952-P5-4481	24,289		
BLM	ACQUATIC ECOREGIONAL PLAN	32,954	134,981	BLM
BOR	S-FG-30-500	1,995		
BOR	1425-97-SP-81-91001	6,503		
BOR	1425-96-PG-81-20392	31,268	39,766	BOR
DOD	9510031	6,316		
DOD	1443PX528096262	7,942		
DOD	25CZ00M1 EWW68EWD8	20,198		
DOD	411-44-60102	47,229		
DOD	531-95	1,409		
DOD	695-102	93,443		
DOD	95-1008-2	38,976		
DOD	95-1008-3	15,996		
DOD	ADDENDUM#1 DOD MOA	111,801		
DOD	AED94005	458,791		
DOD	AED95008	107,402		
DOD	AFZH-DEQ	101,193		
DOD	CAMP ROBERTS	1,185		
DOD	COE FLOOD CONTROL	2,141		
DOD	DAAH03-96-P-1807	3,605		
DOD	DAAHH03-95-P-2813	6,993		
DOD	DABT 63-94-P3307	1,913		
DOD	DABT02-95-P-2218	21,552		
DOD	DABT02-95-Q-0568	13,847		
DOD	DABT10-96-P-2192	12,373		
DOD	DABT63-95-T-0873	2,048		

The Nature Conservancy
Schedule of Expenditures on Fixed Price Federal Agreements
For the Year Ended June 30, 1998

Federal Agency/Pass-Through Entity	Agreement Identifier	Expenditures	Agency Totals
DOD	DABT63-96-P-1665	42,398	
DOD	DACW33-95-M-0580	30,393	
DOD	DACW33-96-M-0433	9,912	
DOD	DACW33-96-M-0434	5,236	
DOD	DACW33-96-M-0435	16,364	
DOD	DACW33-96-M-0624	22,733	
DOD	DACW33-96-M-0634	20,579	
DOD	DACW33-97-M-0284	3,865	
DOD	DACW33-97-M-0288	3,621	
DOD	DACW33-97-M-0289	6,919	
DOD	DACW33-97-M-0335	37,562	
DOD	DAHA72-96-P-0247	866	
DOD	DAHA90-95-M-0835	11,415	
DOD	DAHA90-95-M-0836	12,594	
DOD	DAHA90-96-N-0528	3,987	
DOD	DAKF36-95-F-5405	5,798	
DOD	DAKF40-95-R-0012	10,954	
DOD	DAKF61-94-M-3716	2,915	
DOD	DAMD17-93-J-3082	12,785	
DOD	DAMF17-94-V-4018	35,104	
DOD	DBEH931858 EEIC 5347	14,861	
DOD	DEV. OF END SPECIES	29,398	
DOD	DOD PROJ NO 1205	29,379	
DOD	ENDVSENS PLNT SURVEY	42,908	
DOD	F08650-96-RA028	34,674	
DOD	F48808896WE081	7,550	
DOD	F4860896WE037	1,744	
DOD	F4860896WE054	2,335	
DOD	F4860896WE060	266	
DOD	FB4852-94200-071	4,866	
DOD	FIELD SURVEYS OF C #	29,059	
DOD	FT.GORDON COMMUNITY CLASS	35,502	
DOD	FT.STEWART-LLP RESTORAT.	4,585	
DOD	FY7621-94-90245	180,653	
DOD	INV FOR AMPHS & REPS	80,403	
DOD	INV FOR WTR HOWELLIA	33,402	
DOD	J-94-1899	17,654	
DOD	M67004-91-D-0100	484,974	
DOD	N00140-95-C-H026	26,221	
DOD	N44255-97-M-5151	8,538	
DOD	OAHC77-96-C-0042	116,208	
DOD	P.B. ARSENAL - FAUNAL INV	13,351	
DOD	PHASE II	164,636	
DOD	PR 94-0626	103,756	
DOD	PROJ7897AE03001	28,970	

The Nature Conservancy
Schedule of Expenditures on Fixed Price Federal Agreements
For the Year Ended June 30, 1998

Federal Agency/Pass-Through Entity	Agreement Identifier	Expenditures	Agency Totals	
DOD	PROT OF FT LEWIS RNA	204,646		
DOD	RIPARIAN RESTORATION	68,801		
DOD	TX93-LEG-01 ENV372	64,751		
DOD	TX94-LEG-03-MIPR 723	53,955		
DOD	W41XDE62548327	11,712		
DOD	WAFO-97-2	28,272		
DOD/DNR	CAMP GRAYLING SOLIDA	1,451		
DOD/RMTC	1-17488-0-C	186		
DOD/TPWD	CAMP BARKELEY ES MGMT	25,430	3,327,252	DOD
DOE	97AP33618	2,422		
DOE/UNIV FL	942242401	3,264		
DOE/UPVG	GIA9601/GIA9602	61,727	67,413	DOE
DOT/GOCO	BIOLOGICAL RESOURCES	6,668		
DOT/U TN	CUT085	469	7,137	DOT
EPA	13420-6-283	15,003		
EPA	5B0755NANA	6,979		
EPA	CD99195-01-0	9,377		
EPA	MM990661-01-0	7,282		
EPA	X984077-97-0	24,222		
EPA/DEC	C003620	6,626		
EPA/DEP	96-3526	220		
EPA/DFW	CD991322-01-0	56,073		
EPA/DFW	CD991596-01-0	2,812		
EPA/DFW	RIVERINE SYSTEMS	42,102		
EPA/DNR	CD994673-95-0	72,354		
EPA/DRED	ID & PROTECT. OF NC	10,946		
EPA/LHVA	NAT. AREAS INVENTORY	31,326		
EPA/ODFW	97-58	11,441	296,763	EPA
FHA	DTFE70-94-P-1562	3,480	3,480	FHA
HUD/ADAMS CT	ADAMS NAI	5,916		
HUD/YORK CTY	PA HP YORK NAI	25,956	31,872	HUD
NBS	1448-4-94-996	6,184		
NBS/DNR	GAP GAPS	2,409		
NBS/DNR	GAP MA	23,654		
NBS/SSC	1445-4-95-9147	21,529		
NBS/U OF ID	14-16-9-1579	10,445		
USGS	14-45-CN7985-96-1012	26,699		
USGS	81070-7-[illegible]12	1,589		
USGS	USGS-NBS-LMERS-REPORT	3,563		

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Schedule of Expenditures on Fixed Price Federal Agreements
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Federal Agency/Pass-Through Entity	Agreement Identifier	Expenditures	Agency Totals	
USGS/ESRI	B1701	2,166	98,238	NBS & USGS
NPS	1268-2-9011	280		
NPS	1443 PX 1700 95 218	2,693		
NPS	1443PX45096067	1,791		
NPS	1443PX750097028	216		
NPS	1443TD4520-96-604	1,500		
NPS	1600-9-8006	87,487		
NPS	HABITAT PROTECTION	8,010		
NPS	VEGETATION CHANGE I#	3,700		
NPS/ERSI	B 1701	120,232		
NPS/UVI/ECC	UVI/ECC AGREEMENT	65,640		
NPS/WV DNR	MD HP PROJECTS	34,874	326,423	NPS
USFS	110451079305	2,129		
USFS	40-4146-6-156	1,497		
USFS	40-82X9-4-0390	1,814		
USFS	40-82X9-4-0392	1,370		
USFS	42-82X9-6-0275	26,930		
USFS	42-82X9-6-0276	9,425		
USFS	43-04NO-3-0296	223		
USFS	43-04TO-6-0075	2,921		
USFS	43-0-5-5173	778		
USFS	43-05GG-6-0065	4,601		
USFS	43-05GG-6-0066	19,908		
USFS	43-0-6-6138	1,081		
USFS	43-343-5-148	1,914		
USFS	43-343-6-156	332		
USFS	43-343-6-206	24,750		
USFS	43-343-6-207	22,939		
USFS	43-355-6-64	17,627		
USFS	43-82FT-5-0750	106		
USFS	43-82FT-5-1194	843		
USFS	443-05GG-6-0067	2,042		
USFS	53-0343-3-00045 A1-5	33,085		
USFS	53-04H1-3070 A4-R	21,097		
USFS	53-04NO-2-040RD	640		
USFS	53-343-3-36	14,375		
USFS	AMD #1	17,362		
USFS	BIG HORN RNA	5,500		
USFS	FORESTRY SCIENCE LABS	22,794		
USFS	RESEARCH NAT AREAS	141		
USFS	RM-ALB-96-072	982		
USFS	SIVERSPOT POP. '97	465	259,669	USFS

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Federal Agency/Pass-Through Entity	Agreement Identifier	Expenditures	Agency Totals
USFWS	10130-6-310	464	
USFWS	10181-4-1055(PM)	13,359	
USFWS	10181-5-1736 (EM)	11,676	
USFWS	12200-6-3150	22,069	
USFWS	13420-4-520	4,500	
USFWS	13420-5-871	244	
USFWS	13420-5-884	3,795	
USFWS	13420-5-887	4,589	
USFWS	13420-5-908	2,111	
USFWS	13420-6-153	4,776	
USFWS	13420-6-282	4,480	
USFWS	13590-5-88	29,886	
USFWS	14-16-0004-89-961 M1	304	
USFWS	14-16-002-91-248 A# 8	2,000	
USFWS	14-16-1-90506	13,026	
USFWS	14-16-2-89-212	10,000	
USFWS	14-16-2-91-233	98,988	
USFWS	14-16-4-92-988	4,438	
USFWS	14-16-5-91-88	2,653	
USFWS	14-46-2-91-233	12,394	
USFWS	14-46-4-90-946	11,546	
USFWS	14-48-0001	8,425	
USFWS	14-48-0005-93-9002 #	5,892	
USFWS	14480005939002 A#25	2,894	
USFWS	14-48-1-93631	17,590	
USFWS	14-48-1-95821	1,999	
USFWS	1448-2-96	201	
USFWS	14-48-40181-97-G-32	8,376	
USFWS	1448-4-96-9102	11,430	
USFWS	1448-4-96-9118	24,588	
USFWS	1448-4-96-986	1,251	
USFWS	1448-4-96-987	220	
USFWS	14-48-5-93-9002	2,051	
USFWS	14-48-5-93-9002	579	
USFWS	14-48-5-93-9054	5,029	
USFWS	14-48-5-93-9063	12,214	
USFWS	14-48-5-94-9113	1,504	
USFWS	14-48-5-95-9099	281	
USFWS	30181-2-1534	2,332	
USFWS	32720-6-125	332	
USFWS	43910-5-192	249	
USFWS	50181-0-0791	52,699	
USFWS	50181-4-5033	4,487	
USFWS	50181-4-968	5,456	
USFWS	50181-5-813	8,000	

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For the Year Ended June 30, 1998

Federal Agency/Pass-Through Entity	Agreement Identifier	Expenditures	Agency Totals	
USFWS	52410-3-0209 14-48-0	3,719		
USFWS	52410-3-256	1,799		
USFWS	52410-3-269	1,387		
USFWS	52410-4-469	911		
USFWS	52421-3-5406	378		
USFWS	53410-5-671	2,142		
USFWS	61411-4-0126	20,929		
USFWS	61570-6-0012A	1,641		
USFWS	BOTANICAL UPDATE	38,109		
USFWS	CA FOR TECHNICAL SUP	7,305		
USFWS	EP-1-8	836		
USFWS	GARDEN CREEK SCIENCE OPS	6,018		
USFWS	SAMPLING DESIGN	1,043		
USFWS	SE-5-P-7	249		
USFWS	USFWS AMARANTHUS 96	1,847		
USFWS	USFWS FENDER BB '97	758		
USFWS	WLDLF EXTEN AGREE.	10,387		
USFWS/DEC	C003620	6,176		
USFWS/DNR	93-90820 CA 0663	1,602		
USFWS/DNR	DNR CLUB 97	3,162		
USFWS/DNR	DNR KB-MS 97	996		
USFWS/DNR	DNR LOC-97	16,664		
USFWS/DNR	HERITAGE ECOL CONTRACT	13,371		
USFWS/DNR	KB-MS 96	50,036		
USFWS/DRED	RECOV. & RESEARCH	305		
USFWS/DWR	PW-1	18,450		
USFWS/NM ENE	94-521-04-244/95-52#	9,693		
USFWS/VADOAC	ICNCVFO-01-96	1,374		
USFWS/VDACS	ICNC-01-97	514	657,178	USFWS
			5,339,991	TOTAL ALL

106TH CONGRESS
1ST SESSION

H. R. 701

To provide Outer Continental Shelf Impact Assistance to State and local governments, to amend the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act of 1978, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 1999

Mr. YOUNG of Alaska (for himself, Mr. DINGELL, Mr. TAUZIN, Mr. JOHN, Mr. BAKER, Mr. RANGEL, Mr. CHAMBLISS, Mr. PETERSON of Minnesota, Mr. ROGERS, Mr. TANNER, Mr. LIVINGSTON, Mr. LAMPSON, Mr. MCCRERY, Mr. TOWNS, Mr. GOSS, Mr. KILDEE, Mr. NORWOOD, Mr. SHOWS, Mr. HILLIARD, Mr. SESSIONS, Mr. LUTHER, Mr. ROEMER, Ms. MCCARTHY of Missouri, Mr. WEYGAND, Mr. WELLER, Mr. WATKINS, Mr. JEFFERSON, Ms. LEE, Mr. COOKSEY, Mr. HOLDEN, Mr. BASS, and Ms. EDDIE BERNICE JOHNSON of Texas) introduced the following bill; which was referred to the Committee on Resources

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A BILL

To provide Outer Continental Shelf Impact Assistance to State and local governments, to amend the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act of 1978, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Conservation and Reinvestment Act of 1999".

TITLE I—OUTER CONTINENTAL SHELF IMPACT ASSISTANCE

SEC. 101. FINDINGS.

The Congress finds and declares that—

(1) the Nation owns valuable mineral assets that are located both onshore and on the Federal Outer Continental Shelf and the policy of the Federal Government is to develop those resources for the benefit of the Nation, under certain restrictions that are designed to prevent environmental damage and other adverse impacts;

(2) development of these resources of the Nation is accompanied by unavoidable environmental impacts and public service impacts in the States that host this development whether the development occurs onshore or on the Federal Outer Continental Shelf;

(3) the Federal Government has a responsibility to assist States that host the development of Federal mineral assets to mitigate adverse environmental

and public service impacts incurred due to that development;

(4) the Federal Government discharges its responsibility to States that host onshore Federal mineral development by sharing 50 percent of the revenue derived from the mineral development with the host State pursuant to section 35 of the Mineral Leasing Act;

(5) today Federal mineral development is occurring as far as 200 miles offshore and occurs off the coasts of only 6 States and section 8(g) of the Outer Continental Shelf Lands Act does not adequately compensate these States for the onshore impacts of the offshore Federal mineral development;

(6) Federal Outer Continental Shelf mineral development is an important and secure source of our Nation's supply of oil and natural gas;

(7) the Outer Continental Shelf Advisory Committee of the Department of the Interior, consisting of representatives of coastal States, recommended in October 1997, that Federal mineral revenue derived from the entire Outer Continental Shelf be shared with all coastal States and territories to mitigate onshore impacts from Federal offshore mineral development and for other environmental mitigation;

(8) Federal mineral assets are a nonrenewable, capital asset of the Nation; the production and sale of this asset produces revenue to the Nation that is also a capital asset of the Nation; thus, a portion of the revenue derived from the production and sale of Federal minerals should be reinvested in the Nation through environmental mitigation and public service improvements; and

(9) it is fair to share a portion of the revenue derived from Federal Outer Continental Shelf production with the impacted States; and an emphasis on where this production takes place should not be construed as incentive for development.

SEC. 102. DEFINITIONS.

For purposes of this title:

(1) The term "allocable share" means, for a coastal State, that portion of revenue that is allocated to that coastal State under section 103(c). For an eligible political subdivision of a coastal State, such term means that portion of revenue that is allocated to that political subdivision under section 103(e).

(2) The term "coastal population" means the population of all political subdivisions, as determined by the most recent official data of the Census Bu-

reau, contained in whole or in part within the designated coastal boundary of a State as defined in a State's coastal zone management program under the Coastal Zone Management Act (16 U.S.C. 1455).

(3) The term "coastal State" means any State of the United States bordering on the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Bering Sea, the Gulf of Mexico, or any of the Great Lakes, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(4) The term "coastline" has the same meaning that it has in the Submerged Lands Act (43 U.S.C. 1301 et seq.).

(5) The term "distance" means minimum great circle distance, measured in statute miles.

(6) The term "eligible political subdivision" means a political subdivision of a coastal State which political subdivision has a seaward boundary that lies within a distance of 200 miles from the geographic center of any leased tract. The Secretary shall annually provide a list of all eligible political subdivisions of each coastal State to the Governor of such State.

(7) The term "fiscal year" means the Federal Government's accounting period which begins on October 1st and ends on September 30th, and is designated by the calendar year in which it ends.

(8) The term "Governor" means the highest elected official of a coastal State.

(9) The term "leased tract" means a tract, leased under section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) for the purpose of drilling for, developing and producing oil and natural gas resources, which is a unit consisting of either a block, a portion of a block, a combination of blocks and/or portions of blocks, as specified in the lease, and as depicted on an Outer Continental Shelf Official Protraction Diagram.

(10) The term "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of "lands beneath navigable waters" as defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

(11) The term "political subdivision" means the local political jurisdiction immediately below the level of State government, including counties, parishes,

and boroughs. If State law recognizes an entity of general government that functions in lieu of, and is not within, a county, parish, or borough, the Secretary may recognize an area under the jurisdiction of such other entities of general government as a political subdivision for purposes of this title.

(12) The term "qualified Outer Continental Shelf revenues" means all moneys received by the United States from each leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)), or lying within such zone but to which section 8(g) does not apply, the geographic center of which lies within a distance of 200 miles from any part of the coastline of any coastal State, including bonus bids, rents, royalties (including payments for royalty taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued pursuant to the Outer Continental Shelf Lands Act.

(13) The term "Secretary" means the Secretary of the Interior or the Secretary's designee.

(14) The term "the Fund" means the Outer Continental Shelf Impact Assistance Fund established under section 103(a).

SEC. 103. IMPACT ASSISTANCE FORMULA AND PAYMENTS.

(a) ESTABLISHMENT OF FUND.—(1) There is established in the Treasury of the United States a fund which shall be known as the "Outer Continental Shelf Impact Assistance Fund". The Secretary shall deposit in the Fund in this section 27 percent of the qualified Outer Continental Shelf revenues.

(2) No revenues shall be placed in the Fund from a leased tract or portion of a leased tract that is located in a geographic area subject to a leasing moratorium on January 1, 1999, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 1999.

(3) The Secretary of the Treasury shall invest moneys in the Fund that are excess to expenditures at the written request of the Secretary, in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. All interest earned on such moneys shall be avail-

able, without further appropriation, for obligation or expenditure under chapter 69 of title 31 of the United States Code (relating to PILT) or under section 401 of the Act of June 15, 1935 (49 Stat. 383; 16 U.S.C. 715s).

(b) PAYMENT TO STATES.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), the Secretary shall, without further appropriation, make payments in each fiscal year to coastal States and to eligible political subdivisions equal to the amount deposited in the Fund for the prior fiscal year (reduced by any refunds paid under section 106(b) and not including any interest earned as provided in subsection (a)(3)). Such payments shall be allocated among the coastal States and eligible political subdivisions as provided in this section.

(c) DETERMINATION OF STATES' ALLOCABLE SHARES.—

(1) ALLOCABLE SHARE FOR EACH STATE.—For each coastal State, the Secretary shall determine the State's allocable share of the total amount of the revenues deposited in the Fund for each fiscal year using the following weighted formula:

(A) 50 percent of such revenues shall be allocated to each State as provided in paragraph (2).

(B) 25 percent of such revenues shall be allocated to each State based on the ratio of each State's shoreline miles to the shoreline miles of all coastal States.

(C) 25 percent of such revenues shall be allocated to each State based on the ratio of each State's coastal population to the coastal population of all coastal States.

(2) OFFSHORE OUTER CONTINENTAL SHELF PRODUCTION SHARE.—If any portion of a coastal State lies within a distance of 200 miles from the geographic center of any leased tract, such State shall receive part of its allocable share under paragraph (1)(A) based on the Outer Continental Shelf oil and gas production offshore of such State. Such part of its allocable share shall be inversely proportional to the distance between the nearest point on the coastline of such State and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile), as determined by the Secretary. In applying this paragraph a leased tract or portion of a leased tract shall be excluded if the tract or portion is located in a geographic area subject to a leasing moratorium on January 1, 1999, unless the lease was issued prior to the establish-

ment of the moratorium and was in production on January 1, 1999.

(3) MINIMUM STATE SHARE.—

(A) IN GENERAL.—The allocable share of revenues determined by the Secretary under this subsection for each coastal State with an approved coastal management program (as defined by the Coastal Zone Management Act (16 U.S.C. 1451)) or which is making satisfactory progress toward one shall not be less than 0.50 percent of the total amount of the revenues deposited in the Fund for each fiscal year. For any other coastal State the allocable share of such revenues shall not be less than 0.25 percent of such revenues.

(B) RECOMPUTATION.—Where one or more coastal States' allocable shares, as computed under paragraph (1) and (2), are increased by any amount under this paragraph, the allocable share for all other coastal States shall be recomputed and reduced by the same amount so that not more than 100 percent of the amount deposited in the fund is allocated to all coastal States. The reduction shall be divided pro rata among such other coastal States.

(d) PAYMENTS TO STATE.—50 percent of each State's allocable share, as determined under subsection (c), shall be paid to the State, except that in the case of a coastal State in which there is no eligible political subdivision, 100 percent of the State's allocable share, as determined under subsection (c), shall be paid to the State.

(e) PAYMENTS TO POLITICAL SUBDIVISIONS.—50 percent of each State's allocable share, as determined under subsection (c), shall be paid to the eligible political subdivisions in such State. Such payments shall be allocated among the eligible political subdivisions of the State according to ratios that are inversely proportional to the distance between the nearest point on the seaward boundary of each such eligible political subdivision and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile), as determined by the Secretary.

(f) TIME OF PAYMENT.—(1) Payments to coastal States and eligible political subdivisions under this section shall be made not later than December 31 of each year from revenues received during the immediately preceding fiscal year. Payment shall not commence before the date 12 months following the date of enactment of this Act.

(2) Any amount in the Fund not paid to coastal States and eligible political subdivisions under this section

in any fiscal year shall be disposed of according to the law otherwise applicable to receipts from leases on the Outer Continental Shelf.

SEC. 104. USES OF FUNDS.

Funds received pursuant to this title shall be used by the coastal States and eligible political subdivisions for the following projects and activities:

(1) Air quality, water quality, fish and wildlife (including cooperative or contract research on marine fish), wetlands, or other coastal and estuarine resources.

(2) Other activities of such State or political subdivision, authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the provisions of subtitle B of title IV of the Oil Pollution Act of 1990 (104 Stat. 523), or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(3) Administrative and planning costs of complying with the provisions of this subtitle. Up to one percent of the amounts made available to any State in any fiscal year under this title may be used for purposes of administrative costs.

(4) Uses related to the Outer Continental Shelf Lands Act.

(5) Mitigating impacts of Outer Continental Shelf activities including onshore infrastructure and public service needs.

SEC. 105. OBLIGATIONS OF STATES AND ELIGIBLE POLITICAL SUBDIVISIONS.

(a) STATE PLANS.—Within 1 year after the date of enactment of this Act, the Governor of every State eligible to receive moneys from the Fund shall develop a State plan for the use of such moneys and shall certify the plan to the Secretary. The plan shall be developed with public participation and shall include the plan for the use of such funds by every political subdivision of the State eligible to receive moneys from the Fund. The Governor shall certify to the Secretary that the plan was developed with public participation and in accordance with all applicable State laws. The Governor shall amend the plan, as necessary, with public participation, but not less than every 5 years.

(b) PROJECT SUBMISSION.—Prior to receiving funds pursuant to this title for any fiscal year, an eligible political subdivision shall submit to the Governor of the State in which it is located a plan setting forth the projects and activities for which the eligible political subdivision proposes to expend such funds. Such plan shall state the

amounts proposed to be expended for each project or activity during the upcoming fiscal year.

(c) PROJECT APPROVAL.—Prior to the payment of funds pursuant to this title to any eligible political subdivision for any fiscal year, the Governor must approve the plan submitted by the eligible political subdivision pursuant to subsection (b) and notify the Secretary of such approval. State approval of any such plan shall be consistent with all applicable State and Federal law. In the event the Governor disapproves any such plan, the funds that would otherwise be paid to the eligible political subdivision shall be placed in escrow by the Secretary pending modification and approval of such plan, at which time such funds together with interest thereon shall be paid to the eligible political subdivision. Any eligible political subdivision that fails to receive approval from the Governor of such plan may appeal to the Secretary and the Secretary may approve or disapprove such plan based on the eligible uses set forth in section 104.

(d) CERTIFICATION.—Not later than 60 days after the end of the fiscal year, any eligible political subdivision receiving funds under this title shall certify to the Governor—

(1) the amount of such funds expended by the political subdivision during the previous fiscal year;

(2) the amounts expended on each project or activity;

(3) a general description of how the funds were expended; and

(4) the status of each project or activity.

The certification under paragraph (4) shall include a certification that a project or activity is consistent with the State plan developed under subsection (a).

SEC. 106. ANNUAL REPORT; REFUNDS.

(a) REPORT.—On June 15 of each year, the Governor of each State receiving moneys from the Fund under this title shall account for all moneys so received for the previous fiscal year in a written report to the Secretary and the Congress. The report shall include a description of all projects and activities receiving funds under this title, including all information required under section 105(c).

(b) REFUNDS.—In those instances where through judicial decision, administrative review, arbitration, or other means there are royalty refunds owed to entities generating revenues under this title, 27 percent of such refunds shall be paid from amounts available in the Fund.

TITLE II—STATE, LOCAL, AND URBAN CONSERVATION AND RECREATION

SEC. 201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Land and Water Conservation Fund Act of 1965 embodied a concept that a portion of the proceeds from Outer Continental Shelf mineral leasing revenues and the depletion of a nonrenewable natural resource should result in a legacy of places accessible to the public for conservation and public recreation and benefit from resources belonging to all people, of all generations, and the enhancement of the most precious and most renewable natural resource of any nation, healthy and active citizens.

(2) The States and local governments were to occupy a pivotal role in accomplishing the purposes of the Land and Water Conservation Act of 1965 and the Act originally provided an equitable portion of funds to the States, and through them, to local governments.

(3) Because of competition for funding and the limited availability of Federal moneys, the original intention of the Land and Water Conservation Fund Act of 1965 has been abandoned and, in recent

years, States have not received an equitable proportion of direct funding.

(4) With population growth and urban sprawl, the demand for conservation and recreation areas at the State and local level, including urban localities, remains a high priority.

(5) There has been an increasing need for Federal moneys to be made available for Federal purposes under the Land and Water Conservation Fund Act of 1965, with lands identified as important for Federal acquisition not being acquired for several years due to insufficient funds.

(b) PURPOSE.—The purpose of this title is to complement State, local, and private commitments envisioned in the Land and Water Conservation Fund Act of 1965 and the Urban Park and Recreation Recovery Act of 1978 by providing grants for State, local, and urban conservation and recreation needs, and to provide a secure source of Federal purposes under the Land and Water Conservation Fund Act of 1965.

SEC. 202. FUNDING FOR STATE, LOCAL, AND URBAN CONSERVATION AND RECREATION.

(a) REVENUES.—Section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–5(c)(1)) is amended by redesignating paragraph (1) of subsection

(c) as subsection (d) and by amending subsection (c) to read as follows:

"(c) OUTER CONTINENTAL SHELF REVENUES.—(1) 23 percent of the qualified Outer Continental Shelf revenues (as defined in section 102 of the Conservation and Reinvestment Act of 1999) shall also be credited to a separate account in the Land and Water Conservation Fund in the Treasury in each fiscal year through September 30, 2015. Revenues covered into the fund under this subsection shall be available, without further appropriation, in the next succeeding fiscal year to carry out this Act. To the extent that such revenues in a fiscal year exceed $900,000,000, such excess shall be available, without further appropriation, in the next succeeding fiscal year for obligation or expenditure under chapter 69 of title 31 of the United States Code (relating to PILT) or under section 401 of the Act of June 15, 1935 (49 Stat. 383; 16 U.S.C. 715s).

"(2) The Secretary of the Treasury shall invest moneys in the separate account that are excess to expenditures at the written request of the Secretary, in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding

marketable obligations of the United States of comparable maturity. All interest earned on such moneys shall be available, without further appropriation, for obligation or expenditure under chapter 69 of title 31 of the United States Code (relating to PILT) or under section 401 of the Act of June 15, 1935 (49 Stat. 383; 16 U.S.C. 715s).".

(b) CONFORMING AMENDMENT.—Section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6) is amended by striking "Moneys" and inserting "Except as provided under section 2(c), moneys".

(c) ALLOCATION OF FUNDS.—Section 5 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–7) is amended as follows:

(1) By striking "ALLOCATION" and inserting "(a) IN GENERAL" after "SEC 5.".

(2) By striking the second sentence and all that follows down through the period at the end thereof.

(3) By adding at the end the following new subsection at the end:

"(b) ALLOCATION.—Amounts available in the fund under section 2(c)(1) of this Act (16 U.S.C. 460l–5(c)(1)) for obligation or expenditure may be obligated or expended only as follows—

"(1) 42 percent shall be available for Federal purposes, 25 percent of which shall be made available to the Secretary of Agriculture for the acquisition of lands, waters, or interests in land or water solely within the exterior boundaries of areas of the National Forest System or any other land management unit established by Act of Congress and managed by the Secretary of Agriculture (notwithstanding the first proviso of section 7(1)), and 75 percent of which shall be available to the Secretary of the Interior for the acquisition of lands, waters, or interests in land or water solely within the exterior boundaries of areas of the National Park System, National Wildlife Refuge System, or any other land management unit established by Act of Congress and managed by the Secretary of the Interior. At least ⅔ of the moneys available under this subparagraph for Federal purposes shall be spent east of the 100th meridian. Up to one percent of the amounts made available in any fiscal year under this paragraph may be used for administration. No moneys available under this paragraph for Federal purposes shall be used for condemnation of any interest in property.

"(2) 42 percent shall be available for financial assistance to the States under section 6 of this Act (16 U.S.C. 460l–8) distributed according to the following allocation formula:

"(A) 60 percent shall be apportioned equally among the States.

"(B) 20 percent shall be apportioned on the basis of the ratio which the population of each State bears to the total population of all States.

"(C) 20 percent shall be apportioned on the basis of the ratio which the acreage of each State bears to the total acreage of all States.

Up to one percent of the amounts made available in any fiscal year under this paragraph may be used for administration.

"(3) 16 percent shall be available to local governments through the Urban Parks and Recreation Recovery Program (16 U.S.C. 2501–2514) of the Department of the Interior. Up to one percent of the amounts made available in any fiscal year under this paragraph may be used for administration.".

(d) TRIBES AND ALASKA NATIVE VILLAGE CORPORATIONS.—Section 6(b)(5) of the Land and Water Con-

servation Fund Act of 1965 (16 U.S.C. 460l–8(b)(5)) is amended as follows:

(1) By inserting "(A)" after "(5)".

(2) By adding at the end the following new subparagraph:

"(B) For the purposes of paragraph (1), all federally recognized Indian tribes and Alaska Native Village Corporations (as defined in section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j)) shall be treated collectively as 1 State, and shall receive shares of the apportionment under paragraph (1) in accordance with a competitive grant program established by the Secretary by rule. Such rule shall ensure that in each fiscal year no single tribe or Village Corporation receives more than 10 percent of the total amount made available to all tribes and Village Corporations pursuant to the apportionment under paragraph (1). Funds received by an Indian tribe or Village Corporation under this subparagraph may be expended only for the purposes specified in paragraphs (1) and (3) of subsection (b).".

(e) LOCAL ALLOCATION.—Section 6(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C.

460l–8(b)) is amended by adding the following new paragraph at the end:

"(6) Absent some compelling and annually documented reason to the contrary acceptable to the Secretary of the Interior, each State (other than an area treated as a State under paragraph (5)) shall make available as grants to local governments, at least 50 percent of the annual State apportionment, or an equivalent amount made available from other sources.".

(f) MATCH.—Subsection 6(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8(c)) is amended to read as follows:

"(c) MATCHING REQUIREMENTS.—Payments to any State shall cover not more than 50 percent of the cost of outdoor conservation and recreation planning, acquisition, or development projects that are undertaken by the State.".

(g) STATE ACTION AGENDA.—(1) Section 6(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8(d)) is amended to read as follows:

"(d) STATE ACTION AGENDA REQUIRED.—Each State may define its own priorities and criteria for selection of outdoor conservation and recreation acquisition and development projects eligible for grants under this Act

so long as it provides for public involvement in this process and publishes an accurate and current State Action Agenda for Community Conservation and Recreation (in this Act referred to as the 'State Action Agenda') indicating the needs it has identified and the priorities and criteria it has established. In order to assess its needs and establish its overall priorities, each State, in partnership with its local governments and Federal agencies, and in consultation with its citizens, shall develop, within 5 years after the enactment of the Conservation and Reinvestment Act of 1999, a State Action Agenda that meets the following requirements:

"(1) The agenda must be strategic, originating in broad-based and long-term needs, but focused on actions that can be funded over the next 4 years.

"(2) The agenda must be updated at least once every 4 years and certified by the Governor that the State Action Agenda conclusions and proposed actions have been considered in an active public involvement process.

State Action Agendas shall take into account all providers of conservation and recreation lands within each State, including Federal, regional, and local government resources and shall be correlated whenever possible with other State, regional, and local plans for parks, recreation, open space,

and wetlands conservation. Recovery action programs developed by urban localities under section 1007 of the Urban Park and Recreation Recovery Act of 1978 shall be used by a State as a guide to the conclusions, priorities, and action schedules contained in State Action Agenda. Each State shall assure that any requirements for local outdoor conservation and recreation planning, promulgated as conditions for grants, minimize redundancy of local efforts by allowing, wherever possible, use of the findings, priorities, and implementation schedules of recovery action programs to meet such requirements.".

(2) Comprehensive State Plans developed by any State under section 6(d) of the Land and Water Conservation Fund Act of 1965 before the date 5 years after the enactment of this Act shall remain in effect in that State until a State Action Agenda has been adopted pursuant to the amendment made by this subsection, but no later than 5 years after the enactment of this Act.

(h) STATE PLANS.—Subsection 6(e) of Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8(e)) is amended as follows:

(1) By striking "State comprehensive plan" at the end of the first paragraph and inserting "State Action Agenda".

(2) By striking "State comprehensive plan" in paragraph (1) and inserting "State Action Agenda".

(3) By striking "but not including incidental costs related to acquisition" at the end of paragraph (1).

(i) CONVERSION.—Paragraph (3) of section 6(f) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8(f)(3)) is amended by striking the second sentence and inserting: "The Secretary shall approve such conversion only if the State demonstrates no prudent or feasible alternative exists with the exception of those properties that no longer meet the criteria within the State Action Agenda as an outdoor conservation and recreation facility due to changes in demographics or that must be abandoned because of environmental contamination which endangers public health and safety. Any conversion must satisfy such conditions as the Secretary deems necessary to assure the substitution of other conservation and recreation properties of at least equal fair market value and reasonably equivalent usefulness and location and which are consistent with the existing State Action Agenda; except that wetland areas and interests therein as identified in the wetlands provisions of the action agenda and proposed to be acquired as suitable replacement property within that same State that is otherwise acceptable to the

Secretary shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion.".

(j) COST LIMITATIONS.—Section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9) is amended by adding the following at the end thereof:

"(d) MAXIMUM FEDERAL COST PER PROJECT.—No expenditure shall be made to acquire, construct, operate, or maintain any project under this section, the total Federal cost of which exceeds $1,000,000 unless the funds for such project have been specifically authorized by a subsequently enacted law.".

SEC. 203. URBAN PARK AND RECREATION RECOVERY ACT OF 1978 AMENDMENTS.

(a) GRANTS.—Section 1004 of the Urban Park and Recreation Recovery Act (16 U.S.C. 2503) is amended by redesignating subsections (d), (e), and (f) as subsections (f), (g), and (h) respectively, and by inserting the following after subsection (c):

"(d) 'development grants' means matching capital grants to local units of government to cover costs of development and construction on existing or new neighborhood recreation sites, including indoor and outdoor recreation facilities, support facilities, and landscaping, but excluding routine maintenance and upkeep activities;

"(e) 'acquisition grants' means matching capital grants to local units of government to cover the direct and incidental costs of purchasing new park land to be permanently dedicated and made accessible for public recreation use;".

(b) ELIGIBILITY.—Section 1005(a) of the Urban Park and Recreation Recovery Act (16 U.S.C. 2504) is amended to read as follows:

"(a) Eligibility of general purpose local governments to compete for assistance under this title shall be based upon need as determined by the Secretary. Generally, the list of eligible governments shall include the following:

"(1) All central cities of Metropolitan, Primary or Consolidated Statistical Areas as currently defined by the census.

"(2) All political subdivisions of a State included in Metropolitan, Primary or Consolidated Statistical Areas as currently defined by the census.

"(3) Any other city, town, or village within a Metropolitan Statistical Area with a total population of 50,000 or more in the census of 1970, 1980, or subsequent updates.

"(4) Any other political subdivision of a State with a total population of 250,000 or more in the census of 1970, 1980, or subsequent updates.".

(c) MATCHING GRANTS.—Subsection 1006(a) of the Urban Park and Recreation Recovery Act (16 U.S.C. 2505(a)) is amended by striking all through paragraph (3) and inserting the following:

"SEC. 1006. (a) The Secretary is authorized to provide 70 percent matching grants for rehabilitation, innovation, development, or acquisition to any eligible general purpose unit of local government upon approval by the Secretary of applications for such purpose by the chief executive of such a government.

"(1) At the discretion of such applicants, and if consistent with an approved application, rehabilitation, innovation, development, or acquisition grants may be transferred in whole or in part to independent special purpose local governments, private nonprofit agencies or political subdivisions or regional park authorities; except that such general purpose units of local government shall provide assurance to the Secretary that they will maintain public recreation opportunities at assisted areas and facilities owned or managed by them in accordance with section 1010 of this Act.

"(2) Payments may be made only for those rehabilitation, innovation, development, or acquisition projects which have been approved by the Secretary.

Such payments may be made from time-to-time in keeping with the rate of progress toward completion of a project, on a reimbursable basis.".

(d) COORDINATION.—Section 1008 of the Urban Park and Recreation Recovery Act (16 U.S.C. 2507) is amended by striking the last sentence and inserting the following: "The Secretary and general purpose local governments are encouraged to coordinate preparation of recovery action programs required by this title with State Action Agendas for Community Conservation and Recreation required by section 6 of the Land and Water Conservation Fund Act of 1965, including the allowance of flexibility in local preparation of recovery action programs so that they may be used to meet State or local qualifications for local receipt of Land and Water Conservation Fund grants or State grants for similar purposes or for other conservation or recreation purposes. The Secretary shall also encourage States to consider the findings, priorities, strategies, and schedules included in the recovery action programs of their urban localities in preparation and updating of the State Action Agendas for Conservation and Recreation, in accordance with the public coordination and citizen consultation requirements of subsection 6(d) of the Land and Water Conservation Fund Act of 1965."

(e) CONVERSION.—Section 1010 of the Urban Park and Recreation Recovery Act (16 U.S.C. 2509) is amended by striking the first sentence and inserting the following: "No property acquired or improved or developed under this title shall, without the approval of the Secretary, be converted to other than public recreation uses. The Secretary shall approve such conversion only if the grantee demonstrates no prudent or feasible alternative exists (with the exception of those properties that are no longer a viable recreation facility due to changes in demographics or must be abandoned because of environmental contamination which endanger public health and safety). Any conversion must satisfy any conditions the Secretary deems necessary to assure the substitution of other conservation and recreation properties of at least equal market value and reasonably equivalent usefulness and location and which are in accord with the current conservation and recreation recovery action program.".

(f) REPEAL.—Section 1014 of the Urban Park and Recreation Recovery Act (16 U.S.C. 2513) is repealed.

SEC. 204. OTHER RIGHTS PRESERVED.

Nothing in this title shall be construed to limit any right to compensation that exists under the Constitution or other laws.

SEC. 205. HABITAT RESERVE PROGRAM.

(a) ESTABLISHMENT OF HABITAT RESERVE PROGRAM.—There is hereby established within the Department of the Interior a Habitat Reserve Program (HRP) to be administered by the Secretary of the Interior in association with the applicable State fish and wildlife department in the State where the affected land is located. The Secretary shall enter into partnership agreements with the State fish and wildlife department and owners and operators of lands suitable for enrollment on a voluntary basis, under which the owners and operators manage the land for the protection and enhancement of protected species in exchange for incentive payments. Where the operator of such land is not the owner, both the owner and the operator must enter into the agreement.

(b) ELIGIBLE LANDS.—Lands eligible for enrollment in the HRP shall be privately owned lands that have been designated by the State agency as being necessary to preserve the existence of 1 or more species listed pursuant to the Endangered Species Act whose owners and operators have voluntarily entered into partnership agreements with the Secretary and the State agency, and which have been accepted for enrollment in accordance with this section.

(c) LIMITATIONS ON LANDS ELIGIBLE FOR ENROLLMENT.—(1) The Secretary and State agency shall not

place under contract more than 25 percent of the land or water in any one county at any one time, except to the extent that the State agency determines, after public comment, that doing so would not adversely affect the local economy of the county.

(2) No contract shall be entered into under this section concerning land with respect to which ownership has changed in the 3-year period preceding the first year of the contract if such land was acquired in order to qualify for this program.

(d) CONTRACT REQUIREMENTS.—(1) Each contract entered into under this section shall obligate the owner and operator of the land to implement the plan agreed to for not less than 5 years.

(2) The Secretary shall make available as grants to the State agency the funds specified in this title for the purposes of entering into landowner agreements as set forth in this title.

(e) MANAGEMENT PLANS.—The plan referred to in subsection (a)(1) above shall set forth the management practices to be carried out by the owner and/or operator of the habitat for the protection and enhancement of the habitat and the species.

(f) DURATION.—Contracts entered into hereunder shall be for a duration of 5 years, until land ownership

is transferred, or until the land ceases to be included within designated critical habitat of the species, whichever is shorter.

(g) PAYMENTS.—(1) The State agency shall establish an equitable method for determining the annual payments under this section, including through the submission of bids in such manner as the Secretary may prescribe.

(2) The Secretary shall pay the cost of establishing management measures and practices required pursuant to the approved management plan.

(3) Any payments received by an owner or operator under this section shall be in addition to, and shall not affect, the total amount of payments that the owner or operator is otherwise eligible to receive under this section, or any other program administered by the Secretary or any other Federal department or agency.

TITLE III—WILDLIFE CONSERVATION AND RESTORATION

SEC. 301. FINDINGS.

The Congress finds and declares that—

(1) a diverse array of species of fish and wildlife is of significant value to the Nation for many reasons: aesthetic, ecological, educational, cultural, recreational, economic, and scientific;

Act) and the Federal Aid in Sport Fish Restoration Act (commonly referred to as the Dingell-Johnson/Wallop-Breaux Act);

(7) State programs, adequately funded to conserve a broad array of wildlife in an individual State and conducted in coordination with Federal, State, tribal, and private landowners and interested organizations, would continue to serve as a vital link in an effort to restore game and nongame wildlife, and the essential elements of such programs should include conservation measures which manage for a diverse variety of populations of wildlife; and

(8) it is proper for Congress to bolster and extend this highly successful program to aid game and nongame wildlife in supporting the health and diversity of habitat, as well as providing funds for conservation education.

SEC. 302. PURPOSES.

The purposes of this title are—

(1) to extend financial and technical assistance to the States under the Federal Aid to Wildlife Restoration Act for the benefit of a diverse array of wildlife and associated habitats, including species that are not hunted or fished, to fulfill unmet needs

of wildlife within the States in recognition of the primary role of the States to conserve all wildlife;

(2) to assure sound conservation policies through the development, revision and implementation of wildlife-associated recreation and wildlife-associated education and wildlife conservation law enforcement;

(3) to encourage State fish and wildlife agencies to participate with the Federal Government, other State agencies, wildlife conservation organizations, and outdoor recreation and conservation interests through cooperative planning and implementation of this title; and

(4) to encourage State fish and wildlife agencies to provide for public involvement in the process of development and implementation of a wildlife conservation and restoration program.

SEC. 303. DEFINITIONS.

(a) REFERENCE TO LAW.—In this title, the term "Federal Aid in Wildlife Restoration Act" means the Act of September 2, 1937 (16 U.S.C. 669 et seq.), commonly referred to as the Federal Aid in Wildlife Restoration Act or the Pittman-Robertson Act.

(b) WILDLIFE CONSERVATION AND RESTORATION PROGRAM.—Section 2 of the Federal Aid in Wildlife Res-

toration Act (16 U.S.C. 669a) is amended by inserting after "shall be construed" in the first place it appears the following: "to include the wildlife conservation and restoration program and".

(c) STATE AGENCIES.—Section 2 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669a) is amended by inserting "or State fish and wildlife department" after "State fish and game department".

(d) CONSERVATION.—Section 2 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669a) is amended by striking the period at the end thereof, substituting a semicolon, and adding the following: "the term 'conservation' shall be construed to mean the use of methods and procedures necessary or desirable to sustain healthy populations of wildlife including all activities associated with scientific resources management such as research, census, monitoring of populations, acquisition, improvement and management of habitat, live trapping and transplantation, wildlife damage management, and periodic or total protection of a species or population as well as the taking of individuals within wildlife stock or population if permitted by applicable State and Federal law; the term 'wildlife conservation and restoration program' means a program developed by a State fish and wildlife department that the Secretary determines meets the criteria in section 6(d), the projects

that constitute such a program, which may be implemented in whole or part through grants and contracts by a State to other State, Federal, or local agencies wildlife conservation organizations and outdoor recreation and conservation education entities from funds apportioned under this title, and maintenance of such projects; the term 'wildlife' shall be construed to mean any species of wild, free-ranging fauna including fish, and also fauna in captive breeding programs the object of which is to reintroduce individuals of a depleted indigenous species into previously occupied range; the term 'wildlife-associated recreation' shall be construed to mean projects intended to meet the demand for outdoor activities associated with wildlife including, but not limited to, hunting and fishing, such projects as construction or restoration of wildlife viewing areas, observation towers, blinds, platforms, land and water trails, water access, trail heads, and access for such projects; and the term 'wildlife conservation education' shall be construed to mean projects, including public outreach, intended to foster responsible natural resource stewardship.".

(e) 10 PERCENT.—Subsection 3(a) of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669b(a)) is amended in the first sentence by—

(1) inserting "(1)" after "(beginning with the fiscal year 1975)"; and

(2) inserting after "Internal Revenue Code of 1954" the following: ", and (2) from 10 percent of the qualified Outer Continental Shelf revenues, as defined in section 102 of the Conservation and Reinvestment Act of 1999,".

SEC. 304. SUBACCOUNT AND REFUNDS.

Section 3 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669b) is amended by adding at the end the following new subsections:

"(c) A subaccount shall be established in the Federal aid to wildlife restoration fund in the Treasury to be known as the 'wildlife conservation and restoration account' and the credits to such account shall be equal to the 10 percent of Outer Continental Shelf revenues referred to in subsection (a)(2). Amounts credited to such account (other than interest) shall be invested by the Secretary of the Treasury as set forth in subsection (b) and shall be made available without further appropriation, in the next succeeding fiscal year, for apportionment to carry out State wildlife conservation and restoration programs. All interest on such amounts shall be available, without further appropriation, for obligation or expenditure for

purposes of the North American Wetlands Conservation Act of 1989 (16 U.S.C. 4401 and following).

"(d) Funds covered into the wildlife conservation and restoration account shall supplement, but not replace, existing funds available to the States from the sport fish restoration and wildlife restoration accounts and shall be used for the development, revision, and implementation of wildlife conservation and restoration programs and should be used to address the unmet needs for a diverse array of wildlife and associated habitats, including species that are not hunted or fished, for wildlife conservation, wildlife conservation education, and wildlife-associated recreation projects; provided such funds may be used for new programs and projects as well as to enhance existing programs and projects.

"(e) Notwithstanding subsections (a) and (b) of this section, with respect to the wildlife conservation and restoration account so much of the appropriation apportioned to any State for any fiscal year as remains unexpended at the close thereof is authorized to be made available for expenditure in that State until the close of the fourth succeeding fiscal year. Any amount apportioned to any State under this subsection that is unexpended or unobligated at the end of the period during which it is available for

expenditure on any project is authorized to be reapportioned to all States during the succeeding fiscal year.

"(f) In those instances where through judicial decision, administrative review, arbitration, or other means there are royalty refunds owed to entities generating revenues available for purposes of this Act, 10 percent of such refunds shall be paid from amounts available under subsection (a)(2).".

SEC. 305. ALLOCATION OF SUBACCOUNT RECEIPTS.

Section 4 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669c) is amended by adding the following new subsection:

"(c)(1) Notwithstanding subsection (a), so much, not to exceed one percent, of the revenues covered into the wildlife conservation and restoration account in each fiscal year as the Secretary of the Interior may estimate to be necessary for expenses in the administration and execution of programs carried out under the wildlife conservation and restoration account shall be deducted for that purpose, and such sum shall be available, without further appropriation, for such purposes in the next succeeding fiscal year, and within 60 days after the close of such fiscal year the Secretary of the Interior shall apportion such part thereof as remains unexpended, if any, on the same basis

and in the same manner as is provided under paragraphs (2) and (3).

"(2) The Secretary of the Interior, after making the deduction under paragraph (1), shall make the following apportionment from the amount remaining in the wildlife conservation and restoration account:

"(A) To the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than ½ of 1 percent thereof; and

"(B) to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than ⅙ of 1 percent thereof.

"(3) The Secretary of the Interior, after making the deduction under paragraph (1) and the apportionment under paragraph (2), shall apportion the remaining amount in the wildlife conservation and restoration account for each year among the States in the following manner:

"(A) ⅓ of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and

"(B) ⅔ of which is based on the ratio to which the population of such State bears to the total population of all such States;

The amounts apportioned under this paragraph shall be adjusted equitably so that no such State shall be apportioned a sum which is less than ½ of 1 percent of the amount available for apportionment under this paragraph for any fiscal year or more than 5 percent of such amount.".

"(d) WILDLIFE CONSERVATION AND RESTORATION PROGRAMS.—Any State, through its fish and wildlife department, may apply to the Secretary for approval of a wildlife conservation and restoration program or for funds to develop a program, which shall—

"(1) contain provision for vesting in the fish and wildlife department of overall responsibility and accountability for development and implementation of the program;

"(2) contain provision for development and implementation of—

"(A) wildlife conservation projects which expand and support existing wildlife programs to meet the needs of a diverse array of wildlife species,

"(B) wildlife-associated recreation projects, and

"(C) wildlife conservation education projects; and

"(3) contain provision for public participation in the development, revision, and implementation of projects and programs stipulated in paragraph (2) of this subsection.

If the Secretary of the Interior finds that an application for such program contains the elements specified in paragraphs (1) and (2), the Secretary shall approve such application and set aside from the apportionment to the State made pursuant to section 4(c) an amount that shall not exceed 90 percent of the estimated cost of developing and implementing segments of the program for the first 5 fiscal years following enactment of this subsection and not to exceed 75 percent thereafter. Not more than 10 percent of the amounts apportioned to each State from this subaccount for the State's wildlife conservation and restoration program may be used for law enforcement. Following approval, the Secretary may make payments on a project that is a segment of the State's wildlife conservation and restoration program as the project progresses but such payments, including previous payments on the project, if any, shall not be more than the United States pro rata share of such project. The Secretary, under such regulations as he may prescribe, may advance funds representing the United States pro rata share of a project that is a segment of a wildlife conservation and restoration pro-

gram, including funds to develop such program. For purposes of this subsection, the term 'State' shall include the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.".

(b) FACA.—Coordination with State fish and wildlife agency personnel or with personnel of other State agencies pursuant to the Federal Aid in Wildlife Restoration Act or the Federal Aid in Sport Fish Restoration Act shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.) Except for the preceding sentence, the provisions of this title relate solely to wildlife conservation and restoration programs as defined in this title and shall not be construed to affect the provisions of the Federal Aid in Wildlife Restoration Act relating to wildlife restoration projects or the provisions of the Federal Aid in Sport Fish Restoration Act relating to fish restoration and management projects.

SEC. 306. LAW ENFORCEMENT AND EDUCATION.

The third sentence of subsection (a) of section 8 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669g) is amended by inserting before the period at the end thereof: ", except that funds available from this sub-

account for a State wildlife conservation and restoration program may be used for law enforcement and education".

SEC. 307. PROHIBITION AGAINST DIVERSION.

No designated State agency shall be eligible to receive matching funds under this title if sources of revenue available to it after January 1, 1999, for conservation of wildlife are diverted for any purpose other than the administration of the designated State agency, it being the intention of Congress that funds available to States under this title be added to revenues from existing State sources and not serve as a substitute for revenues from such sources. Such revenues shall include interest, dividends, or other income earned on the forgoing.

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106TH CONGRESS
1ST SESSION

H. R. 798

To provide for the permanent protection of the resources of the United States in the year 2000 and beyond.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1999

Mr. GEORGE MILLER of California (for himself, Ms. PELOSI, Mr. BLUMENAUER, Mr. MCGOVERN, Mr. MALONEY of Connecticut, Mr. DEFAZIO, Mr. MCDERMOTT, Mr. ACKERMAN, Mr. DELAHUNT, Mr. LANTOS, Mr. MARKEY, Mr. TIERNEY, Mrs. MINK of Hawaii, Mr. MEEHAN, Mr. STARK, Mr. WAXMAN, Ms. LEE, Ms. WOOLSEY, Mr. SHERMAN, Mr. KILDEE, Mr. BONIOR, Mr. FARR of California, Ms. ESHOO, Mr. PALLONE, Mrs. CHRISTIAN-CHRISTENSEN, Mrs. CAPPS, Mr. INSLEE, Mr. GEPHARDT, Mr. KENNEDY of Rhode Island, Mrs. JONES of Ohio, Mr. RAHALL, Mr. GEJDENSON, Mr. ROTHMAN, Mr. FRANK of Massachusetts, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To provide for the permanent protection of the resources of the United States in the year 2000 and beyond.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Resources 2000 Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings and purpose.
Sec. 4. Definitions.
Sec. 5. Reduction in deposits of qualified OCS revenues for any fiscal year for which those revenues are reduced.
Sec. 6. Limitation on use of available amounts for administration.
Sec. 7. Budgetary treatment of receipts and disbursements.

TITLE I—LAND AND WATER CONSERVATION FUND REVITALIZATION

Sec. 101. Amendment of Land and Water Conservation Fund Act of 1965.
Sec. 102. Extension of period for covering amounts into fund.
Sec. 103. Availability of amounts.
Sec. 104. Allocation and use of fund.
Sec. 105. Expansion of State assistance purposes.
Sec. 106. Allocation of amounts available for State purposes.
Sec. 107. State planning.
Sec. 108. Assistance to States for other projects.
Sec. 109. Conversion of property to other use.

TITLE II—URBAN PARK AND RECREATION RECOVERY PROGRAM AMENDMENTS

Sec. 201. Amendment of Urban Park and Recreation Recovery Act of 1978.
Sec. 202. Purposes.
Sec. 203. Authority to develop new areas and facilities.
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SEC. 3. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) By establishing the Land and Water Conservation Fund in 1965, Congress determined that revenues generated by extraction of nonrenewable oil and gas resources on the Outer Continental Shelf should be dedicated to conservation and preservation purposes.

(2) The Land and Water Conservation Fund has been used for over three decades to protect and

enhance national parks, national forests, national wildlife refuges, and other public lands throughout the Nation. In past years, the Land and Water Conservation Fund has also provided States with vital resources to assist with acquisition and development of local park and outdoor recreation projects.

(3) In 1978, the Congress amended the Land and Water Conservation Fund to authorize $900,000,000 of annual oil and gas receipts to be used for Federal land acquisition and State recreation projects. In recent years, however, the Congress has failed to appropriate funds at the authorized levels to meet Federal land acquisition needs, and has entirely eliminated State recreation funding, leaving an unallocated surplus of over $12,000,000,000 for fiscal year 1999.

(4) To better meet land acquisition needs and address growing public demands for outdoor recreation, the Congress should assure that the Land and Water Conservation Fund is used as it was intended to acquire conservation lands and, in partnership with State and local governments, to provide for improved parks and outdoor recreational opportunities.

(5) The premise of using oil and gas receipts to meet conservation and preservation objectives also

underlies the National Historic Preservation Act (16 U.S.C. 470 et seq.). Revenues to the Historic Preservation Fund accumulate at a rate of $150,000,000 annually, but because the Congress has failed in recent years to appropriate the authorized amounts, the fund has an unallocated surplus of over $2,000,000,000 for fiscal year 1999. To reduce the growing backlog of preservation needs, the Congress should assure that the Historic Preservation Fund is used as was intended.

(6) Building upon the commitment to devote revenues from existing offshore leases to resource protection through the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4) and the National Historic Preservation Act (16 U.S.C. 470 et seq.), the Congress should also dedicate revenues from existing oil and gas leases to meet critical national, State, and local preservation and conservation needs.

(7) Suburban sprawl presents a growing threat to open space and farmland in many areas of the Nation, with an estimated loss of 7,000 acres of farmland and open space every day. Financial resources and incentives are needed to promote the

protection of open space, farmland, ranchland, and forests.

(8) National parks, national forests, national wildlife refuges, and other public lands have significant unmet repair and maintenance needs for trails, campgrounds, and other existing recreational infrastructure, even as outdoor recreation and user demands on these resources are increasing.

(9) Urban park and recreation needs have been neglected, with resulting increases in crime and other inappropriate activity, in part because the Congress has failed in recent years to provide appropriations as authorized by the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.).

(10) Although the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) has prevented the extinction of many plants and animals, the recovery of most species listed under that Act has been hampered by a lack of financial resources and incentives to encourage States and private landowners to contribute to the recovery of protected species.

(11) Native fish and wildlife populations have declined in many parts of the Nation, and face growing threats from habitat loss and invasive species.

Financial resources and incentives are needed for States to improve conservation and management of native species.

(12) Ocean and coastal ecosystems are increasingly degraded by loss of habitat, pollution, overfishing, and other threats to the health and productivity of the marine environment. Coastal States should be provided with financial resources and incentives to better conserve, restore, and manage living marine resources.

(13) The findings of the 1995 National Biological Survey study entitled "Endangered Ecosystems of the United States: A Preliminary Assessment of Loss and Degradation", demonstrate the need to escalate conservation measures that protect our Nation's wildlands and habitats.

(b) PURPOSE.—The purpose of this Act is to expand upon the promises of the Land and Water Conservation Act of 1965 (16 U.S.C. 460l–4 et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) by providing permanent funding for the protection and enhancement of the Nations natural, historic, and cultural resources by a variety of means, including—

(1) the acquisition of conservation lands;

(2) improvement of State and urban parks;

(3) preservation of open space, farmland, ranchland, and forests;

(4) conservation of native fish and wildlife;

(5) recovery of endangered species; and

(6) restoration of coastal and marine resources.

SEC. 4. DEFINITIONS.

In this Act:

(1) COASTLINE.—The term "coastline" has the same meaning that term has in the Submerged Lands Act (43 U.S.C. 1301 et seq.).

(2) COASTAL STATE.—The term "coastal State" has the meaning given the term "coastal state" in the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(3) LEASED TRACT.—The term "leased tract" means a tract, leased under section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) for the purpose of drilling for, developing and producing oil and natural gas resources, which is a unit consisting of either a block, a portion of a block, a combination of blocks or portions of blocks (or both), as specified in the lease, and as depicted on an Outer Continental Shelf Official Protraction Diagram.

(4) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—The term "qualified Outer Continental Shelf revenues"—

(A) except as provided in subparagraph (B)—

(i) means all moneys received by the United States from each leased tract or portion of a leased tract located in the Western or Central Gulf of Mexico, less such sums as may be credited to States under section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) and amounts needed for adjustments and refunds as overpayments for rents, royalties, or other purposes; and

(ii) includes royalties (including payments for royalty taken in-kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331) for such a lease tract or portion; and

(B) does not include any moneys received by the United States under—

(i) any lease issued on or after the date of the enactment of this Act; or

(ii) any lease under which no oil or gas production has occurred before January 1, 1999.

SEC. 5. REDUCTION IN DEPOSITS OF QUALIFIED OCS REVENUES FOR ANY FISCAL YEAR FOR WHICH THOSE REVENUES ARE REDUCED.

(a) REDUCTION IN DEPOSITS.—The amount of qualified Outer Continental Shelf revenues that is otherwise required to be deposited for a limited fiscal year into the Land and Water Conservation Fund, the Historic Preservation Fund, or any other fund or account established by this Act (including the amendments made by this Act) is hereby reduced, so that—

(1) the ratio that the amount deposited (after the reduction) bears to the amount that would otherwise be deposited, is equal to

(2) the ratio that the amount of qualified Outer Continental Shelf Revenues for the fiscal year bears to—

(A) $2,050,000 for fiscal years 2000 and 2001;

(B) $2,150,000 for fiscal years 2002, 2003, and 2004; and

(C) $2,300,000 for fiscal year 2005 and each fiscal year thereafter.

(b) NO REDUCTION IN DEPOSITS OF INTEREST.—Subsection (a) shall not apply to deposits of interest earned from investment of amounts in a fund or other account.

(c) LIMITED FISCAL YEAR DEFINED.—In this section, the term "limited fiscal year" means a fiscal year in which the total amount received by the United States as qualified Outer Continental Shelf revenues is less than—

(1) $2,050,000, for fiscal years 2000 and 2001;

(2) $2,150,000, for fiscal years 2002, 2003, and 2004; and

(3) $2,300,000, for fiscal year 2005 and each fiscal year thereafter.

SEC. 6. LIMITATION ON USE OF AVAILABLE AMOUNTS FOR ADMINISTRATION.

Notwithstanding any other provision of law, of amounts made available by this Act (including the amendments made by this Act) for a particular activity, not more than 2 percent may be used for administrative expenses of that activity.

SEC. 7. BUDGETARY TREATMENT OF RECEIPTS AND DISBURSEMENTS.

Notwithstanding any other provision of law, the receipts and disbursements of funds under this Act and the amendments made by this Act—

(1) shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(A) the budget of the United States Government as submitted by the President;

(B) the congressional budget (including allocations of budget authority and outlays provided therein); or

(C) the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

TITLE I—LAND AND WATER CONSERVATION FUND REVITALIZATION

SEC. 101. AMENDMENT OF LAND AND WATER CONSERVATION FUND ACT OF 1965.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms

of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.)

SEC. 102. EXTENSION OF PERIOD FOR DEPOSITING AMOUNTS INTO FUND.

Section 2 (16 U.S.C. 460l–5) is amended—

(1) in the matter preceding subsection (a) by striking "During the period ending September 30, 2015, there shall be covered into" and inserting "There shall be deposited into";

(2) in paragraph (c)(1) by striking "through September 30, 2015"; and

(3) in paragraph (c)(2)—

(A) by striking "shall be credited to the fund" and all that follows through "as amended (43 U.S.C. 1331 et seq.)" and inserting "shall be deposited into the fund, subject to section 5 of the Resources 2000 Act, from amounts due and payable to the United States as qualified Outer Continental Shelf revenues (as that term is defined in section 4 of that Act)"; and

(B) in the proviso by striking "covered" and inserting "deposited".

SEC. 103. AVAILABILITY OF AMOUNTS.

Section 3 (16 U.S.C. 460l–6) is amended by striking so much as precedes the third sentence and inserting the following:

"APPROPRIATIONS

"SEC. 3. (a) Of amounts in the fund, up to $900,000,000 shall be available each fiscal year for obligation or expenditure without further appropriation, and shall remain available until expended.

"(b) Moneys made available for obligation or expenditure from the fund or from the special account established under section 4(i)(1) may be obligated or expended only as provided in this Act.

"(c) The Secretary of the Treasury shall invest moneys in the fund that are excess to expenditures in public debt securities with maturities suitable to the needs of the fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the fund.".

SEC. 104. ALLOCATION AND USE OF FUND.

Section 5 (16 U.S.C. 460l–7) is amended to read as follows:

"SEC. 5. ALLOCATION AND USE OF FUNDS.

"(a) IN GENERAL.—Of the amounts made available for each fiscal year by this Act—

"(1) 50 percent shall be available for Federal purposes (in this section referred to as the 'Federal portion'); and

"(2) 50 percent shall be available for grants to States.

"(b) USE OF FEDERAL PORTION.—The President shall, in the annual budget submitted by the President for each fiscal year, specify the purposes for which the Federal portion of the fund is to be used by the Secretary of the Interior and the Secretary of Agriculture. Such funds shall be used by the Secretary concerned for the purposes specified by the President in such budget submission unless the Congress, in an Act making appropriations for the Department of the Interior and related agencies for such fiscal year, specifies that any part of such Federal portion shall be used by the Secretary concerned for other Federal purposes as authorized by this Act.

"(c) FEDERAL PRIORITY LIST.—(1) For purposes of the budget submission of the President for each fiscal year, the President shall require the Secretary of the Interior and the Secretary of Agriculture to prepare Federal priority lists for expenditure of the Federal portion.

"(2) The Secretaries shall prepare the lists in consultation with the head of each affected bureau or agency, taking into account the best professional judgment regarding the land acquisition priorities and policies of each bureau or agency.

"(3) In preparing the priority lists, the Secretaries shall consider—

"(A) the potential adverse impacts which might result if a particular acquisition is not undertaken;

"(B) the availability of land appraisal and other information necessary to complete an acquisition in a timely manner; and

"(C) such other factors as the Secretaries consider appropriate.".

SEC. 105. EXPANSION OF STATE ASSISTANCE PURPOSES.

Section 6(a) (16 U.S.C. 460l–8) is amended by striking "outdoor recreation:".

SEC. 106. ALLOCATION OF AMOUNTS AVAILABLE FOR STATE PURPOSES.

Section 6(b) (16 U.S.C. 460l–8) is amended to read as follows:

"(b) DISTRIBUTION AMONG THE STATES.—(1) Sums made available from the fund each fiscal year for State purposes shall be apportioned among the several States by the Secretary, in accordance with this subsection. The

determination of the apportionment by the Secretary shall be final.

"(2) Two-thirds of the sums made available from the fund each fiscal year for State purposes shall be distributed by the Secretary using criteria developed by the Secretary under the following formula:

"(A) 30 percent shall be distributed equally among the several States.

"(B) 70 percent shall be distributed on the basis of the ratio which the population of each State bears to the total population of all States.

"(3) One-third of the sums made available from the fund each fiscal year for State purposes shall be distributed among the several States by the Secretary under a competitive grant program, subject to such criteria as the Secretary determines necessary to further the purposes of the Act.

"(4) The total allocation to an individual State under paragraphs (2) and (3) for a fiscal year shall not exceed 10 percent of the total amount allocated to the several States under this subsection for that fiscal year.

"(5) The Secretary shall notify each State of its apportionment, and the amounts thereof shall be available thereafter to the State for planning, acquisition, or development projects as hereafter described. Any amount of

any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given and the two fiscal years thereafter shall be reapportioned by the Secretary in accordance with paragraph (3), without regard to the 10 percent limitation to an individual State specified in paragraph (4).

"(6)(A) For the purposes of paragraph (2)(A)—

"(i) the District of Columbia shall be treated as a State; and

"(ii) Puerto Rico, the United States Virgin Islands, Guam, and American Samoa—

"(I) shall be treated collectively as one State; and

"(II) shall each be allocated an equal share of any amount distributed to them pursuant to clause (i).

"(B) Each of the areas referred to in subparagraph (A) shall be treated as a State for all other purposes of this Act.".

SEC. 107. STATE PLANNING.

Section 6(d) (16 U.S.C. 460l–8(d)) is amended to read as follows:

"(d) STATE PLAN.—(1)(A) A State plan shall be required prior to the consideration by the Secretary of financial assistance for acquisition or development projects. In

order to reduce costly repetitive planning efforts, a State may use for such plan a current State comprehensive outdoor recreation plan, a State recreation plan, or a State action agenda under criteria developed by the Secretary if, in the judgment of the Secretary, the plan used encompasses and promotes the purposes of this Act. No plan shall be approved for a State unless the Governor of the State certifies that ample opportunity for public participation in development and revision of the plan has been accorded. The Secretary shall develop, in consultation with others, criteria for public participation, and such criteria shall constitute the basis for certification by the Governor.

"(B) The plan or agenda shall contain—

"(i) the name of the State agency that will have the authority to represent and act for the State in dealing with the Secretary for purposes of this Act;

"(ii) an evaluation of the demand for and supply of outdoor conservation and recreation resources and facilities in the State;

"(iii) a program for the implementation of the plan or agenda; and

"(iv) such other necessary information as may be determined by the Secretary.

"(C) The plan or agenda shall take into account relevant Federal resources and programs and be correlated

so far as practicable with other State, regional, and local plans.

"(2) The Secretary may provide financial assistance to any State for the preparation of a State plan under subsection (d)(1) when such plan is not otherwise available or for the maintenance of such a plan.".

SEC. 108. ASSISTANCE TO STATES FOR OTHER PROJECTS.

Section 6(e) (16 U.S.C. 460l–8(e)) is amended—

(1) in subsection (e)(1) by striking ", but not including incidental costs relating to acquisition"; and

(2) in subsection (e)(2) by inserting before the period at the end the following: "or to enhance public safety.".

SEC. 109. CONVERSION OF PROPERTY TO OTHER USE.

Section 6(f)(3) (16 U.S.C. 460l–8(f)) is amended—

(1) by inserting "(A)" before "No property"; and

(2) by striking the second sentence and inserting the following:

"(B)(i) The Secretary shall approve such conversion only if the State demonstrates that no prudent or feasible alternative exists.

"(ii) Clause (i) shall not apply to property that is no longer viable as an outdoor conservation or recreation fa-

cility due to changes in demographics, or that must be abandoned because of environmental contamination which endangers public health and safety.

"(C)(i) The Secretary may not approve such conversion unless the conversion satisfies any conditions the Secretary considers necessary to assure the substitution of other conservation and recreation properties of at least equal market value and reasonable equivalent usefulness and location and which are in accord with the existing State Plan for conservation and recreation.

"(ii) For purposes of clause (i), wetland areas and interests therein, as identified in a plan referred to in that clause and proposed to be acquired as suitable replacement property within the same State, that is otherwise acceptable to the Secretary shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion.".

TITLE II—URBAN PARK AND RECREATION RECOVERY PROGRAM AMENDMENTS

SEC. 201. AMENDMENT OF URBAN PARK AND RECREATION RECOVERY ACT OF 1978.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provi-

sion, the reference shall be considered to be made to a section or other provision of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501 et seq.).

SEC. 202. PURPOSES.

The purpose of this title is to provide a dedicated source of funding to assist local governments in improving their park and recreation systems.

SEC. 203. AUTHORITY TO DEVELOP NEW AREAS AND FACILITIES.

Section 1003 (16 U.S.C. 2502) is amended by inserting "development of new recreation areas and facilities, including the acquisition of lands for such development," after "rehabilitation of critically needed recreation areas, facilities,".

SEC. 204. DEFINITIONS.

Section 1004 (16 U.S.C. 2503) is amended—

(1) in paragraph (j) by striking "and" after the semicolon;

(2) in paragraph (k) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(l) 'development grants'—

"(1) means matching capital grants to units of local government to cover costs of development, land acquisition, and construction

on existing or new neighborhood recreation sites, including indoor and outdoor recreational areas and facilities, and support facilities; and

"(2) does not include landscaping, routine maintenance, and upkeep activities;

"(m) 'qualified Outer Continental Shelf revenues' has the meaning given that term in section 4 of the Resources 2000 Act; and

"(n) 'Secretary' means the Secretary of the Interior.".

SEC. 205. ELIGIBILITY.

Section 1005(a) (16 U.S.C. 2504(a)) is amended to read as follows:

"(a) Eligibility of general purpose local governments to compete for assistance under this title shall be based upon need as determined by the Secretary. Generally, eligible general purpose local governments shall include the following:

"(1) All political subdivisions of Metropolitan, Primary, or Consolidated Statistical Areas, as determined by the most recent Census.

"(2) Any other city or town within such a Metropolitan Statistical Area, that has a total population of 50,000 or more as determined by the most recent Census.

"(3) Any other county, parish, or township with a total population of 250,000 or more as determined by the most recent Census.".

SEC. 206. GRANTS.

Section 1006 (16 U.S.C. 2505) is amended by striking so much as precedes subsection (a)(3) and inserting the following:

"SEC. 1006. (a)(1) The Secretary may provide 70 percent matching grants for rehabilitation, development, and innovation purposes to any eligible general purpose local government upon approval by the Secretary of an application submitted by the chief executive of such government.

"(2) At the discretion of such an applicant, a grant under this section may be transferred in whole or part to independent special purpose local governments, private nonprofit agencies, or county or regional park authorities, if—

"(A) such transfer is consistent with the approved application for the grant; and

"(B) the applicant provides assurance to the Secretary that the applicant will maintain public recreation opportunities at assisted areas and facilities owned or managed by the applicant in accordance with section 1010.

"(3) Payments may be made only for those rehabilitation, development, or innovation projects that have been approved by the Secretary. Such payments may be made from time to time in keeping with the rate of progress toward completion of a project, on a reimbursable basis.".

SEC. 207. RECOVERY ACTION PROGRAMS.

Section 1007(a) (16 U.S.C. 2506(a)) is amended—

(1) in subsection (a) in the first sentence by inserting "development," after "commitments to ongoing planning,"; and

(2) in subsection (a)(2) by inserting "development and" after "adequate planning for".

SEC. 208. STATE ACTION INCENTIVES.

Section 1008 (16 U.S.C. 2507) is amended—

(1) by inserting "(a) IN GENERAL.—" before the first sentence; and

(2) by striking the last sentence of subsection (a) (as designated by paragraph (1) of this section) and inserting the following:

"(b) COORDINATION WITH LAND AND WATER CONSERVATION FUND ACTIVITIES.—(1) The Secretary and general purpose local governments are encouraged to coordinate preparation of recovery action programs required by this title with State plans required under section 6 of the Land and Water Conservation Fund Act of 1965, in-

cluding by allowing flexibility in preparation of recovery action programs so they may be used to meet State and local qualifications for local receipt of Land and Water Conservation Fund grants or State grants for similar purposes or for other conservation or recreation purposes.

(2) The Secretary shall encourage States to consider the findings, priorities, strategies, and schedules included in the recovery action programs of their urban localities in preparation and updating of State plans in accordance with the public coordination and citizen consultation requirements of subsection 6(d) of the Land and Water Conservation Fund Act of 1965.".

SEC. 209. CONVERSION OF RECREATION PROPERTY.

Section 1010 (16 U.S.C. 2509) is amended to read as follows:

"CONVERSION OF RECREATION PROPERTY

"SEC. 1010. (a)(1) No property developed, acquired, or rehabilitated under this title shall, without the approval of the Secretary, be converted to any purpose other than public recreation purposes.

"(2) Paragraph (1) shall apply to—

"(A) property developed with amounts provided under this title; and

"(B) the park, recreation, or conservation area of which the property is a part.

"(b)(1) The Secretary shall approve such conversion only if the grantee demonstrates no prudent or feasible alternative exists.

"(2) Paragraph (1) shall apply to property that is no longer a viable recreation facility due to changes in demographics or that must be abandoned because of environmental contamination which endangers public health or safety.

"(c) Any conversion must satisfy any conditions the Secretary considers necessary to assure substitution of other recreation property that is—

"(1) of at least equal fair market value, or reasonably equivalent usefulness and location; and

"(2) in accord with the current recreation recovery action plan of the grantee.".

SEC. 210. AVAILABILITY OF AMOUNTS.

Section 1013 (16 U.S.C. 2512) is amended to read as follows:

"APPROPRIATIONS

"SEC. 1013. (a) IN GENERAL.—

"(1) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund that shall be known as the 'Urban Park and Recreation Recovery Fund' (in this section referred to as the 'Fund'). The Fund shall consist of such amounts as are deposited into the Fund under this

subsection. Amounts in the fund shall only be used to carry out this title.

"(2) DEPOSITS.—Subject to section 5 of the Resources 2000 Act, from amounts received by the United States as qualified Outer Continental Shelf revenues there shall be deposited into the fund $100,000,000 each fiscal year.

"(3) AVAILABILITY.—Of amounts in the fund, up to $100,000,000 shall be available each fiscal year without further appropriation, and shall remain available until expended.

"(4) INVESTMENT OF EXCESS AMOUNTS.—The Secretary of the Treasury shall invest moneys in the Fund that are excess to expenditures in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the Fund.

"(b) LIMITATIONS ON ANNUAL GRANTS.—Of amounts available to the Secretary each fiscal year under this section—

"(1) not more that 3 percent may be used for grants for the development of local park and recreation recovery action programs pursuant to sections 1007(a) and 1007(c);

"(2) not more than 10 percent may be used for innovation grants pursuant to section 1006; and

"(3) not more than 15 percent may be provided as grants (in the aggregate) for projects in any one State.

"(c) LIMITATION ON USE FOR GRANT ADMINISTRATION.—The Secretary shall establish a limit on the portion of any grant under this title that may be used for grant and program administration.".

SEC. 211. REPEAL.

Section 1015 (16 U.S.C. 2514) is repealed.

TITLE III—HISTORIC PRESERVATION FUND

SEC. 301. AVAILABILITY OF AMOUNTS.

Section 108 of the National Historic Preservation Act (16 U.S.C. 470h) is amended—

(1) by inserting "(a)" before the first sentence;

(2) in subsection (a) (as designated by paragraph (1) of this section) by striking "There shall be covered into such fund" and all that follows through "(43 U.S.C. 338)," and inserting "Subject to section

5 of the Resources 2000 Act, there shall be deposited into such fund $150,000,000 for each fiscal year after fiscal year 1998 from revenues due and payable to the United States as qualified Outer Continental Shelf revenues (as that term is defined in section 4 of that Act),".

(3) by striking the third sentence of subsection (a) (as so designated) and all that follows through the end of the subsection and inserting "Such moneys shall be used only to carry out the purposes of this Act."; and

(4) by adding at the end the following:

"(b)(1) Of amounts in the fund, up to $150,000,000 shall be available each fiscal year after September 30, 1999, for obligation or expenditure without further appropriation to carry out the purposes of this Act, and shall remain available until expended.

"(2) At least ½ of the funds obligated or expended each fiscal year under this section shall be used in accordance with this Act for preservation projects on historic properties. In making such funds available, the Secretary shall give priority to the preservation of endangered historic properties.

"(c) The Secretary of the Treasury shall invest moneys in the fund that are excess to expenditures in public

debt securities with maturities suitable to the needs of the fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the fund.".

TITLE IV—FARMLAND, RANCHLAND, OPEN SPACE, AND FORESTLAND PROTECTION

SEC. 401. PURPOSE.

The purpose of this title is to provide a dedicated source of funding to the Secretary of Agriculture and the Secretary of the Interior for programs to provide matching grants to certain eligible entities to facilitate the purchase of conservation easements on farmland, ranchland, open space, and forestland in order to—

(1) protect the ability of these lands to continue in productive sustainable agricultural use; and

(2) prevent the loss of their value to the public as open space because of nonagricultural development.

SEC. 402. FARMLAND, RANCHLAND, OPEN SPACE, AND FORESTLAND PROTECTION FUND; AVAILABILITY OF AMOUNTS.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund that shall be known as the "Farmland, Ranchland, Open Space, and Forestland Protection Fund" (in this title referred to as the "Fund"). Subject to section 5 of this Act, there shall be deposited into the Fund $150,000,000 of qualified Outer Continental Shelf revenues received by the United States each fiscal year.

(b) AVAILABILITY.—Amounts in the Fund shall be available as provided in section 403, without further appropriation, and shall remain available until expended.

(c) INVESTMENT OF EXCESS AMOUNTS.—The Secretary of the Treasury shall invest moneys in the Fund that are excess to expenditures in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the Fund.

SEC. 403. AUTHORIZED USES OF FARMLAND, RANCHLAND, OPEN SPACE, AND FORESTLAND PROTECTION FUND.

(a) FARMLAND PROTECTION PROGRAM.—The Secretary of Agriculture may use up to $50,000,000 annually from the Farmland, Ranchland, Open Space, and Forestland Protection Fund for the Farmland Protection Program established under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 16 U.S.C. 3830 note), as amended by section 404.

(b) RANCHLAND PROTECTION PROGRAM.—The Secretary of the Interior may use up to $50,000,000 annually from the Fund for the Ranchland Protection Program established by section 405.

(c) FOREST LEGACY PROGRAM.—The Secretary of Agriculture may use up to $50,000,000 annually from the Fund for the Forest Legacy Program established by section 7 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c).

SEC. 404. FARMLAND PROTECTION PROGRAM.

(a) EXPANSION OF EXISTING PROGRAM.—Section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 16 U.S.C. 3830 note) is amended to read as follows:

"SEC. 388. FARMLAND PROTECTION PROGRAM.

"(a) GRANTS AUTHORIZED; PURPOSE.—The Secretary of Agriculture shall establish and carry out a program, to be known as the 'Farmland Protection Program', under which the Secretary shall provide grants to eligible entities described in subsection (c) to provide the Federal share of the cost of purchasing permanent conservation easements in land with prime, unique, or other productive soil for the purpose of protecting the continued use of the land as farmland or open space by limiting nonagricultural uses of the land.

"(b) FEDERAL SHARE.—The Federal share of the cost of purchasing a conservation easement described in subsection (a) may not exceed 50 percent of the total cost of purchasing the easement.

"(c) ELIGIBLE ENTITY DEFINED.—In this section, the term 'eligible entity' means—

"(1) an agency of a State or local government;

"(2) a federally recognized Indian tribe; or

"(3) any organization that is organized for, and at all times since its formation has been operated principally for, one or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986 and—

"(A) is described in section 501(c)(3) of the Code;

"(B) is exempt from taxation under section 501(a) of the Code; and

"(C) is described in paragraph (2) of section 509(a) of the Code, or paragraph (3) of such section, but is controlled by an organization described in paragraph (2) of such section.

"(d) TITLE; ENFORCEMENT.—Any eligible entity may hold title to a conservation easement described in subsection (a) and enforce the conservation requirements of the easement.

"(e) STATE CERTIFICATION.—As a condition of the receipt by an eligible entity of a grant under subsection (a), the attorney general of the State in which the conservation easement is to be purchased using the grant funds shall certify that the conservation easement to be purchased is in a form that is sufficient, under the laws of the State, to achieve the conservation purpose of the Farmland Protection Program and the terms and conditions of the grant.

"(f) CONSERVATION PLAN.—Any land for which a conservation easement is purchased under this section shall be subject to the requirements of a conservation plan

to the extent that the plan does not negate or adversely affect the restrictions contained in the easement.

"(g) TECHNICAL ASSISTANCE.—The Secretary of Agriculture may not use more than 10 percent of the amount that is made available for any fiscal year under this program to provide technical assistance to carry out this section.".

(b) EFFECT ON EXISTING EASEMENTS.—The amendment made by subsection (a) shall not affect the validity or terms of conservation easements and other interests in lands purchased under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 16 U.S.C. 3830 note) before the date of the enactment of this Act.

SEC. 405. RANCHLAND PROTECTION PROGRAM.

(a) GRANTS AUTHORIZED; PURPOSE.—The Secretary of Interior shall establish and carry out a program, to be known as the "Ranchland Protection Program", under which the Secretary shall provide grants to eligible entities described in subsection (c) to provide the Federal share of the cost of purchasing permanent conservation easements on ranchland, which is in danger of conversion to nonagricultural uses, for the purpose of protecting the continued use of the land as ranchland or open space.

(b) FEDERAL SHARE.—The Federal share of the cost of purchasing a conservation easement described in subsection (a) may not exceed 50 percent of the total cost of purchasing the easement.

(c) ELIGIBLE ENTITY DEFINED.—In this section, the term "eligible entity" means—

(1) an agency of a State or local government;

(2) a federally recognized Indian tribe; or

(3) any organization that is organized for, and at all times since its formation has been operated principally for, one or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986 and—

(A) is described in section 501(c)(3) of the Code;

(B) is exempt from taxation under section 501(a) of the Code; and

(C) is described in paragraph (2) of section 509(a) of the Code, or paragraph (3) of such section, but is controlled by an organization described in paragraph (2) of such section.

(d) TITLE; ENFORCEMENT.—Any eligible entity may hold title to a conservation easement described in sub-

section (a) and enforce the conservation requirements of the easement.

(e) STATE CERTIFICATION.—As a condition of the receipt by an eligible entity of a grant under subsection (a), the attorney general of the State in which the conservation easement is to be purchased using the grant funds shall certify that the conservation easement to be purchased is in a form that is sufficient, under the laws of the State, to achieve the conservation purpose of the Ranchland Protection Program and the terms and conditions of the grant.

(f) CONSERVATION PLAN.—Any land for which a conservation easement is purchased under this section shall be subject to the requirements of a conservation plan to the extent that the plan does not negate or adversely affect the restrictions contained in the easement.

(g) RANCHLAND DEFINED.—In this section, the term "ranchland" means private or tribally owned rangeland, pastureland, grazed forest land, and hay land.

(h) TECHNICAL ASSISTANCE.—The Secretary of the Interior may not use more than 10 percent of the amount that is made available for any fiscal year under this program to provide technical assistance to carry out this section.

TITLE V—FEDERAL AND INDIAN LANDS RESTORATION FUND

SEC. 501. PURPOSE.

The purpose of this title is to provide a dedicated source of funding for a coordinated program on Federal and Indian lands to restore degraded lands, protect resources that are threatened with degradation, and protect public health and safety.

SEC. 502. FEDERAL AND INDIAN LANDS RESTORATION FUND; AVAILABILITY OF AMOUNTS; ALLOCATION.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund that shall be known as the "Federal and Indian Lands Restoration Fund". Subject to section 5 of this Act, there shall be deposited into the fund $250,000,000 of qualified Outer Continental Shelf revenues received by the United States each fiscal year. Amounts in the fund shall only be used to carry out the purpose of this title.

(b) AVAILABILITY.—Of amounts in the fund, up to $250,000,000 shall be available each fiscal year without further appropriation, and shall remain available until expended.

(c) ALLOCATION.—Amounts made available under this section shall be allocated as follows:

(1) DEPARTMENT OF THE INTERIOR.—60 percent shall be available to the Secretary of the Interior to carry out the purpose of this title on lands within the National Park System, National Wildlife Refuge System, and public lands administered by the Bureau of Land Management.

(2) DEPARTMENT OF AGRICULTURE.—30 percent shall be available to the Secretary of Agriculture to carry out the purpose of this title on lands within the National Forest System.

(3) INDIAN TRIBES.—10 percent shall be available to the Secretary of the Interior for competitive grants to qualified Indian tribes under section 503(b).

(d) INVESTMENT OF EXCESS AMOUNTS.—The Secretary of the Treasury shall invest moneys in the fund that are excess to expenditures in public debt securities with maturities suitable to the needs of the fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the fund.

SEC. 503. AUTHORIZED USES OF FUND.

(a) IN GENERAL.—Funds made available pursuant to this title shall be used solely for restoration of degraded lands, resource protection, maintenance activities related to resource protection, or protection of public health or safety.

(b) COMPETITIVE GRANTS TO INDIAN TRIBES.—

(1) GRANT AUTHORITY.—The Secretary of the Interior shall administer a competitive grant program for Indian tribes, using such criteria as may be developed by the Secretary to achieve the purpose of this title.

(2) LIMITATION.—The amount received for a fiscal year by a single Indian tribe in the form of grants under this subsection may not exceed 10 percent of the total amount provided to all Indian tribes for that fiscal year in the form of such grants.

(c) PRIORITY LIST.—The Secretary of the Interior and the Secretary of Agriculture shall each establish priority lists for the use of funds available under this title. Each list shall give priority to projects based upon the protection of significant resources, the severity of damages or threats to resources, and the protection of public health or safety.

(d) COMPLIANCE WITH APPLICABLE PLANS.—Any project carried out on Federal lands with amounts pro-

vided under this title shall be carried out in accordance with all management plans that apply under Federal law to the lands.

(e) TRACKING RESULTS.—Not later than the end of the first full fiscal year for which funds are available under this title, the Secretary of the Interior and the Secretary of Agriculture shall jointly establish a coordinated program for—

(1) tracking the progress of activities carried out with amounts made available by this title; and

(2) determining the extent to which demonstrable results are being achieved by those activities.

SEC. 504. INDIAN TRIBE DEFINED.

In this title, the term "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior recognizes as an Indian tribe under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).

TITLE VI—LIVING MARINE RESOURCES CONSERVATION, RESTORATION, AND MANAGEMENT ASSISTANCE

SEC. 601. PURPOSE.

The purpose of this title is to provide a dedicated source of funding for a coordinated program to—

(1) preserve biological diversity and natural assemblages of living marine resources, and their habitat; and

(2) provide financial assistance to the coastal States, private citizens, and nongovernmental entities for the conservation, restoration, and management of living marine resources and their habitat.

SEC. 602. FINANCIAL ASSISTANCE TO COASTAL STATES.

(a) AUTHORIZATION OF ASSISTANCE.—

(1) IN GENERAL.—The Secretary may use amounts allocated to an eligible coastal State under subsection (b) to reimburse the State for costs described in paragraph (3) that are incurred by the State.

(2) ELIGIBLE COASTAL STATES.—A coastal State shall be an eligible coastal State under paragraph (1) if—

(A) the State has a Living Marine Resources Conservation Plan that is approved under subsection (d); or

(B) the Secretary determines that the State is making sufficient progress toward completion of such a plan.

(3) COSTS ELIGIBLE FOR REIMBURSEMENT.—The costs referred to in paragraph (1) are the following:

(A) The costs of developing a Living Marine Resources Conservation Plan pursuant to subsection (d), as follows:

(i) Not to exceed 90 of such costs incurred in each of the first three fiscal years that begin after the date of the enactment of this Act.

(ii) Not to exceed 75 percent of such costs incurred in each of the fourth and fifth fiscal years that begin after the date of the enactment of this Act.

(iii) Not to exceed 75 percent of such costs incurred in the sixth or seventh year that begins after the date of the enactment of this Act (or both), upon a showing by the State of a need for that assistance for

that year and a finding by the Secretary that the plan is likely to be completed within that 2-fiscal-year period.

(B) Not to exceed 75 percent of the costs of implementing and revising an approved conservation plan.

(C) Not to exceed 90 percent of implementing conservation actions under an approved conservation plan that are undertaken—

(i) in cooperation with one or more other coastal States; or

(ii) in coordination with Federal actions for the conservation, restoration, or management of living marine resources.–

(4) EMERGENCY FUNDING.—Notwithstanding paragraph (1), the Secretary may reimburse a coastal State for 100 percent of the cost of conservation actions on a showing of need by the State and if those actions—

(A) are substantial in character and design;

(B) meet such of the requirements of subsection (d) as may be appropriate; and

(C) are considered by the Secretary to be necessary to fulfill the purpose of this title.

(5) IN-KIND CONTRIBUTIONS; LIMITATION ON INCLUDED COSTS.—(A) In computing the costs incurred by any State during any fiscal year for purposes of paragraphs (1) and (4), the Secretary, subject to subparagraph (B), shall take into account, in addition to each outlay by the State, the value of in-kind contributions (including real and personal property and services) received and applied by the State during the year for activities for which the costs are computed.

(B) In computing the costs incurred by any State during any fiscal year for purposes of paragraphs (1) and (4)—

(i) the Secretary shall not include costs paid by the State using Federal moneys received and applied by the State, directly or indirectly, for the activities for which the costs are computed; and

(ii) the Secretary shall not include in-kind contributions in excess of 50 percent of the amount of reimbursement paid to the State under this subsection for the fiscal year.

(C) For purposes of subparagraph (A), in-kind contributions may be in the form of, but are not required to be limited to, personal services rendered by

volunteers in carrying out surveys, censuses, and other scientific studies regarding living marine resources. The Secretary shall by regulation establish—

(i) the training, experience, and other qualifications which such volunteers must have in order for their services to be considered as in-kind contributions; and

(ii) the standards under which the Secretary will determine the value of in-kind contributions and real and personal property for purposes of subparagraph (A).

(D) Any valuation determination made by the Secretary for purposes of this paragraph shall be final and conclusive.

(b) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall allocate among all coastal States the funds available each fiscal year under section 604(b), as follows:

(A) A portion equal to ⅔ of the funds shall be allocated by allocating to each coastal State an amount that bears the same ratio to that portion as the coastal population of the State bears to the total coastal population of all coastal States.

(B) A portion equal to ⅓ of the funds shall be allocated by allocating to each coastal State an amount that bears the same ratio to that portion as the shoreline miles of the State bears to the shoreline miles of all coastal States.

(2) MINIMUM AND MAXIMUM ALLOCATIONS.—Notwithstanding paragraph (1), the total amount allocated to a coastal State under subparagraphs (A) and (B) of paragraph (1) for a fiscal year shall be not less than ½ of one percent, and not more than 10 percent, of the total amount of funds available under section 604(b) for the fiscal year.

(c) AVAILABILITY OF FUNDS TO STATES.—

(1) IN GENERAL.—Amounts allocated to a coastal State under this section for a fiscal year shall be available for expenditure by the State in accordance with this section without further appropriation, and shall remain available for expenditure for the subsequent fiscal year.

(2) REVERSION.—(A) Except as provided in subparagraph (B), amounts allocated under subsection (b)(1) to a coastal State for a fiscal year that are not expended before the end of the subsequent fiscal year shall, upon the expiration of the

subsequent fiscal year, revert to the Fund and remain available for reallocation under subsection (b).

(B) Subparagraph (A) shall not apply to amounts that are otherwise subject to reallocation under this paragraph if the Secretary certifies in writing that the purposes of this title would be better served if the amounts remained available for use by the coastal State.

(C) Amounts that remain available to a coastal State pursuant to a certification under subparagraph (B) may remain available for a period specified by the Secretary in the certification, which shall not exceed 2 fiscal years.

(d) APPROVAL OF COASTAL STATE LIVING MARINE RESOURCES CONSERVATION PLANS.—

(1) SUBMISSION.—A coastal State that seeks financial assistance under this section shall submit to the Secretary, in such manner as the Secretary shall by regulation prescribe, an application that contains a proposed Living Marine Resources Conservation Plan.

(2) REVIEW AND APPROVAL.—As soon as is practicable, but no later than 180 days, after the date on which a coastal State submits (or resubmits in the case of a prior disapproval) an application for

the approval of a proposed Living Marine Resources Conservation Plan, the Secretary shall—

(A) approve the plan, if the Secretary determines that the plan—

(i) fulfills the purpose of this title;

(ii) is substantial in character and design; and

(iii) meets the requirements set forth in subsection (e); or

(B) if the proposed plan does not meet the criteria set forth in subparagraph (A), disapprove the conservation plan and provide the coastal State—

(i) a written statement of the reasons for disapproval;

(ii) an opportunity to consult with the Secretary regarding deficiencies in the plan and the modifications required for approval; and

(iii) an opportunity to revise and resubmit the plan.

(e) LIVING MARINE RESOURCES CONSERVATION PLANS.—The Secretary may not approve an Living Marine Resources Conservation Plan proposed by a coastal State unless the Secretary determines that the plan—

(1) promotes balanced and diverse assemblages of living marine resources;

(2) provides for the vesting in a designated State agency the overall responsibility for the development and revision of the plan;

(3) provides for an inventory of the living marine resources that are within the waters of the State and are of value to the public for ecological, economic, cultural, recreational, scientific, educational, and esthetic benefits;

(4) with respect to species inventoried under paragraph (3) (in this subsection referred to as "plan species"), provides for—

(A) determination of the size, range, and distribution of their populations; and

(B) identification of the extent, condition, and location of their habitats;

(5) provides for identification of any significant factors which may adversely affect the plan species and their habitats;

(6) provides for determination and implementation of the actions that should be taken to conserve, restore, and manage the plan species and their habitats;

(7) provides for establishment of priorities for implementing conservation actions determined under paragraph (6);

(8) provides for the monitoring, on a regular basis, of the plan species and the effectiveness of the conservation actions determined under paragraph (6);

(9) provides for review and, if appropriate, revision of the plan, at intervals of not more than 3 years;

(10) ensures that the public is given opportunity to make its views known and considered during the development, revision, and implementation of the plan;

(11) identifies and establishes mechanisms for coordinating conservation, restoration, and management actions under the plan with appropriate Federal and interstate bodies with responsibility for living marine resources management and conservation; and

(12) provides for consultation by the State agency designated under paragraph (2), as appropriate, with Federal and State agencies, interstate bodies, nongovernmental entities, and the private sector during the development, revision, and imple-

mentation of the plan, in order to minimize duplication of effort and to ensure that the best information is available to all parties.

SEC. 603. OCEAN CONSERVATION PARTNERSHIPS.

(a) IN GENERAL.—The Secretary may use amounts available under section 604(b) to make grants for the conservation, restoration, or management of living marine resources.

(b) ELIGIBILITY AND APPLICATION.—Any person may apply to the Secretary for a grant under this section, in such manner as the Secretary shall by regulation prescribe.

(c) REVIEW PROCESS.—Not later than 6 months after receiving an application for a grant under this section, the Secretary shall—

(1) request written comments on the project proposal contained in the application from each State or territory of the United States, and from each Regional Fishery Management Council established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), having jurisdiction over any area in which the project is proposed to be carried out;

(2) provide for the merit-based peer review of the project proposal and require standardized documentation of that peer review;

(3) after reviewing any written comments and recommendations received under subsection (c)(1), and based on such comments and recommendations and peer review, approve or disapprove the proposal; and

(4) provide written notification of that approval or disapproval to the applicant.

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a proposal for a grant under this section only if the Secretary determines that the proposed project—

(1) fulfills the purposes of this title;

(2) is substantial in character and design; and

(3) provide for the long-term conservation, restoration, or management of living marine resources.

(e) PRIORITY CONSIDERATION.—In approving and disapproving proposals under this section, the Secretary shall give priority to funding proposed projects that, in addition to satisfying the criteria of subsection (d), will—

(1) establish or enhance existing cooperation and coordination between the public and private sectors;

(2) assist in achieving the objectives of a National Estuary, National Marine Sanctuary, National Estuarine Research, Reserve, or other marine protected area established under Federal or State law; or

(3) assist in the conservation and enhancement of essential fish habitat pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(f) LIMITATION ON AMOUNT OF GRANTS.—The amount provided to a private person in a fiscal year in the form of a grant under this section may not exceed 2 percent of the total amount available for the fiscal year for such grants.

(g) TERMS AND CONDITIONS OF GRANTS.—The Secretary shall require that each grantee under this section shall conform with such record-keeping requirements, reporting requirements, and other terms and conditions as the Secretary shall by regulation prescribe.

SEC. 604. LIVING MARINE RESOURCES CONSERVATION FUND; AVAILABILITY OF AMOUNTS.

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund which shall be

known as the "Living Marine Resources Conservation Fund".

(2) CONTENTS.—The Fund shall consist of—

(A) amounts deposited into the Fund under this section; and

(B) amounts that revert to the Fund under section 602(c)(2).

(3) DEPOSIT OF OCS REVENUES.—Subject to section 5 of this Act, from amounts received by the United States as qualified Outer Continental Shelf revenues each fiscal year, there shall be deposited into the Fund the following:

(A) For each of fiscal years 2000 and 2001, $100,000,000.

(B) For each of fiscal years 2002, 2003, and 2004, $200,000,000.

(C) For each of fiscal year 2005 and each fiscal year thereafter, $300,000,000.

(b) AVAILABILITY OF AMOUNTS.—

(1) IN GENERAL.—Of amounts in the Fund, up to the amount stated for a fiscal year in paragraph (3) shall be available to the Secretary for that fiscal year without further appropriation to carry out this title, and shall remain available until expended.

(2) USE.—Of the amounts expended under this subsection for a fiscal year—

(A) ⅔ shall be used by the Secretary for providing financial assistance to coastal States under section 602; and

(B) ⅓ shall be used by the Secretary for grants under section 603.

(c) INVESTMENT OF EXCESS AMOUNTS.—The Secretary of the Treasury shall invest moneys in the Fund that are excess to expenditures in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the Fund.

SEC. 605. DEFINITIONS.

In this title:

(1) COASTAL POPULATION.—The term "coastal population" means the population of all political subdivisions, as determined by the most recent official data of the Census Bureau, contained in whole or in part within the designated coastal boundary of a State as defined in a State's coastal zone manage-

ment program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(2) FUND.—The term "Fund" means the Living Marine Resources Conservation Fund established by section 604.

(3) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(4) LIVING MARINE RESOURCES.—The term "living marine resources" means indigenous fin fish, anadromous fish, mollusks, crustaceans, and all other forms of marine animal and plant life, including marine mammals and birds, that inhabit marine or brackish waters of the United States during all or part of their life cycle.

TITLE VII—FUNDING FOR STATE NATIVE FISH AND WILDLIFE CONSERVATION AND RESTORATION

SEC. 701. AMENDMENTS TO FINDINGS AND PURPOSES.

(a) FINDINGS.—Section 2(a) of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901(a)) is amended—

(1) in paragraph (1) by striking "Fish and wildlife" and inserting "Native fish and wildlife";

(2) in paragraph (2)—

(A) by striking "fish and wildlife, particularly nongame fish and wildlife" and inserting "native fish and wildlife, particularly nongame species"; and

(B) by striking "maintaining fish and wildlife" and inserting "maintaining biological diversity";

(3) in paragraph (3) by striking "fish and wildlife" and inserting "native fish and wildlife";

(4) in paragraph (4) by striking "nongame fish and wildlife" and inserting "native fish and wildlife"; and

(5) in paragraph (5) by striking "fish and wildlife" and all that follows through the end of the sentence and inserting "native fish and wildlife.".

(b) PURPOSES.—Section 2(b) of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901(b)) is amended—

(1) by striking "nongame fish and wildlife" each place it appears and inserting "native fish and wildlife";

(2) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and inserting before paragraph (2) (as so redesignated) the following:

"(1) to preserve biological diversity by maintaining natural assemblages of native fish and wildlife;"; and

(3) in paragraph (2), as redesignated, by inserting after "States" the following: "(and through the States to local governments where appropriate)".

SEC. 702. DEFINITIONS.

Section 3 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2902) is amended—

(1) in paragraph (2) by striking "fish and wildlife" and inserting "native fish and wildlife";

(2) in paragraph (3)—

(A) by striking "fish and wildlife" and inserting "native fish and wildlife"; and

(B) by striking "development" and inserting "and restoration";

(3) in paragraph (4) by striking "fish and wildlife" and inserting "native fish and wildlife";

(4) by amending paragraph (5) to read as follows:

"(5) The term 'native fish and wildlife'—

"(A) subject to subparagraph (B), means a fish, animal, or plant species that—

"(i) historically occurred or currently occurs in an ecosystem, other than as a result of an introduction; and

"(ii) lives in an unconfined state; and

"(B) does not include any population of a domesticated species that has reverted to a feral existence.

Any determination by the Secretary that a species is or is not a species of native fish and wildlife for purposes of this Act shall be final.";

(5) by striking paragraph (6) and redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and

(6) by adding at the end the following:

"(8) The term 'Native Wildlife Fund' means the Native Fish and Wildlife Conservation and Restoration Fund established by section 11.

"(9) The term 'qualified Outer Continental Shelf revenues' has the meaning given that term in section 4 of the Resources 2000 Act.".

SEC. 703. CONSERVATION PLANS.

Section 4 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2903) is amended—

(1) by redesignating paragraphs (1) through (10) in order as paragraphs (2) through (11);

(2) by inserting before paragraph (2) (as so redesignated) the following:

"(1) promote balanced and diverse assemblages of native fish and wildlife;";

(3) in paragraph (3) (as so redesignated) by striking "nongame" and all that follows through "appropriate," and inserting "native fish and wildlife";

(4) in paragraph (4) (as so redesignated) by striking "(2)" and inserting "(3)";

(5) in paragraph (5) (as so redesignated) by striking "problems" and inserting "factors"; and

(6) in paragraphs (7) and (8) (as so redesignated) by striking "(5)" and inserting "(6)".

SEC. 704. CONSERVATION ACTIONS IN ABSENCE OF CONSERVATION PLAN.

(a) IN GENERAL.—Section 5 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2904) is amended—

(1) in the section heading by striking "**NONGAME**";

(2) by striking subsection (c), and redesignating subsection (d) as subsection (c); and

(3) in subsection (c) (as so redesignated) by—

(A) in the subsection heading, by striking "NONGAME";

(B) striking "nongame fish and wildlife" and inserting "native fish and wildlife"; and

(C) striking "and" after the semicolon at the end of paragraph (1), striking the period at the end of paragraph (2) and inserting "; and", and adding at the end the following:

"(3) are consistent with the purposes of this Act.".

(b) CONFORMING AMENDMENTS.—Section 6 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2905) is amended by striking "section 5(c) and (d)" each place it appears and inserting "section 5(c)".

SEC. 705. AMENDMENTS RELATING TO REIMBURSEMENT PROCESS.

Section 6 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2905) is amended—

(1) in the section heading by striking "**NONGAME**";

(2) in subsection (a)(3) by striking "nongame fish and wildlife";

(3) in subsection (d) by striking "appropriated" and inserting "available";

(4) in subsection (e)(2)—

(A) in subparagraph (A) by striking "1991" and inserting "2010";

(B) in subparagraph (B)—

(i) by striking "1986" and inserting "2005";

(ii) by striking "section 5(d)" and inserting "section 5(c)";

(iii) by striking "nongame fish and wildlife" and inserting "conservation"; and

(iv) by adding "or" after the semicolon;

(C) by striking subparagraphs (C), (D), and (E);

(D) by redesignating subparagraph (F) as subparagraph (C);

(E) in subparagraph (C) (as so redesignated) by striking "nongame fish and wildlife" and inserting "native fish and wildlife"; and

(F) in subparagraph (C)(ii) (as so redesignated) by striking "10 percent" and inserting "50 percent";

(5) in subsection (e)(3)—

(A) in subparagraph (A) by striking "1982, 1983, and 1984" and inserting "2001, 2002, and 2003";

(B) in subparagraph (B) by striking "nongame fish and wildlife"; and

(C) by amending subparagraph (D) to read as follows:

"(D) after September 30, 2010, may not exceed 75 percent of the cost of implementing and revising the plan during the fiscal year."; and

(6) in subsection (e)(4)—

(A) in subparagraph (A) by striking "nongame fish and wildlife"; and

(B) in subparagraph (B) by striking "fish and wildlife" and inserting "native fish and wildlife".

SEC. 706. ESTABLISHMENT OF NATIVE FISH AND WILDLIFE CONSERVATION AND RESTORATION TRUST FUND; AVAILABILITY OF AMOUNTS.

(a) ESTABLISHMENT OF FUND.—Section 11 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2910) is amended to read as follows:

"SEC. 11. NATIVE FISH AND WILDLIFE CONSERVATION AND RESTORATION FUND.

"(a) ESTABLISHMENT OF FUND.—(1) There is established in the Treasury of the United States a fund which shall be known as the 'Native Fish and Wildlife Conservation and Restoration Fund'. The Native Fish and Wildlife

Conservation Fund shall consist of amounts deposited into the Fund under this subsection.

"(2) Subject to section 5 of the Resources 2000 Act, from amounts received by the United States as qualified Outer Continental Shelf revenues each fiscal year, there shall be deposited into the Fund the following amounts:

"(A) For each of fiscal years 2000 and 2001, $100,000,000.

"(B) For each of fiscal years 2002, 2003, and 2004, $200,000,000.

"(C) For fiscal year 2005 and each fiscal year thereafter, $350,000,000.

"(3) The Secretary of the Treasury shall invest moneys in the Fund that are excess to expenditures in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the Fund.

"(b) AVAILABILITY FOR REIMBURSEMENT TO STATES.—Of amounts in the Native Wildlife Fund—

"(1) up to the amount stated in subsection (a)(2) for a fiscal year shall be available to the Sec-

retary of the Interior for that fiscal year, without further appropriation, to reimburse States under section 6 in accordance with the terms and conditions that apply under sections 7 and 8; and

"(2) shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—Section 8 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2907) is amended—

(1) in subsection (a) by striking "appropriated" and inserting "available"; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1) by striking "appropriated" and inserting "available"; and

(B) in paragraph (1)—

(i) by striking "8 percent" and inserting "2 percent"; and

(ii) by striking "the purposes for which so appropriated" and inserting "the purposes for which the amount is available".

TITLE VIII—ENDANGERED AND THREATENED SPECIES RECOVERY

SEC. 801. PURPOSES.

The purposes of this title are the following:

(1) To provide a dedicated source of funding to the Fish and Wildlife Service and the National Marine Fisheries Service for the purpose of implementing an incentives program to promote the recovery of endangered species and threatened species and the habitat upon which they depend.

(2) To promote greater involvement by non-Federal entities in the recovery of the Nation's endangered species and threatened species and the habitat upon which they depend.

SEC. 802. ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.

(a) FINANCIAL ASSISTANCE.—The Secretary may use amounts in the Endangered and Threatened Species Recovery Fund established by section 804 to provide financial assistance to any person for development and implementation of Endangered and Threatened Species Recovery Agreements entered into by the Secretary under section 804.

(b) PRIORITY.—In providing assistance under this section, the Secretary shall give priority to the development and implementation of recovery agreements that—

(1) implement actions identified under recovery plans approved by the Secretary under section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f));

(2) have the greatest potential for contributing to the recovery of an endangered or threatened species; and

(3) to the extent practicable, require use of the assistance—

(A) on land owned by a small landowner; or

(B) on a family farm by the owner or operator of the family farm.

(c) PROHIBITION ON ASSISTANCE FOR REQUIRED ACTIVITIES.—The Secretary may not provide financial assistance under this section for any action that is required by a permit issued under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or that is otherwise required under that Act or any other Federal law.

(d) PAYMENTS UNDER OTHER PROGRAMS.—

(1) OTHER PAYMENTS NOT AFFECTED.—Financial assistance provided to a person under this sec-

tion shall be in addition to, and shall not affect, the total amount of payments that the person is otherwise eligible to receive under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.), the wetlands reserve program established under subchapter C of that chapter (16 U.S.C. 3837 et seq.), or the Wildlife Habitat Incentives Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).

(2) LIMITATION.—A person may not receive financial assistance under this section to carry out activities under a species recovery agreement in addition to payments under the programs referred to in paragraph (1) made for the same activities if the terms of the species recovery agreement do not require financial or management obligations by the person in addition to any such obligations of the person under such programs.

SEC. 803. ENDANGERED AND THREATENED SPECIES RECOVERY AGREEMENTS.

(a) IN GENERAL.—The Secretary may enter into Endangered and Threatened Species Recovery Agreements for purposes of this title in accordance with this section.

(b) REQUIRED TERMS.—The Secretary shall include in each species recovery agreement provisions that—

(1) require the person—

(A) to carry out on real property owned or leased by the person activities not otherwise required by law that contribute to the recovery of an endangered or threatened species;

(B) to refrain from carrying out on real property owned or leased by the person otherwise lawful activities that would inhibit the recovery of an endangered or threatened species; or

(C) to do any combination of subparagraphs (A) and (B);

(2) describe the real property referred to in paragraph (1)(A) and (B) (as applicable);

(3) specify species recovery goals for the agreement, and measures for attaining such goals;

(4) require the person to make measurable progress each year in achieving those goals, including a schedule for implementation of the agreement;

(5) specify actions to be taken by the Secretary or the person (or both) to monitor the effectiveness of the agreement in attaining those recovery goals;

(6) require the person to notify the Secretary if—

(A) any right or obligation of the person under the agreement is assigned to any other person; or

(B) any term of the agreement is breached by the person or any other person to whom is assigned a right or obligation of the person under the agreement;

(7) specify the date on which the agreement takes effect and the period of time during which the agreement shall remain in effect;

(8) provide that the agreement shall not be in effect on and after any date on which the Secretary publishes a certification by the Secretary that the person has not complied with the agreement; and

(9) allocate financial assistance provided under this title for implementation of the agreement, on an annual or other basis during the period the agreement is in effect based on the schedule for implementation required under paragraph (4).

(c) REVIEW AND APPROVAL OF PROPOSED AGREEMENTS.—Upon submission by any person of a proposed species recovery agreement under this section, the Secretary—

(1) shall review the proposed agreement and determine whether it complies with the requirements of this section and will contribute to the recovery of endangered or threatened species that are the subject of the proposed agreement;

(2) propose to the person any additional provisions necessary for the agreement to comply with this section; and

(3) if the Secretary determines that the agreement complies with the requirements of this section, shall approve and enter with the person into the agreement.

(d) MONITORING IMPLEMENTATION OF AGREEMENTS.—The Secretary shall—

(1) periodically monitor the implementation of each species recovery agreement entered into by the Secretary under this section; and

(2) based on the information obtained from that monitoring, annually or otherwise disburse financial assistance under this title to implement the

agreement as the Secretary determines is appropriate under the terms of the agreement.

SEC. 804. ENDANGERED AND THREATENED SPECIES RECOVERY FUND; AVAILABILITY OF AMOUNTS.

(a) ESTABLISHMENT OF FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund that shall be known as the "Endangered and Threatened Species Recovery Fund". The Fund shall consist of such amounts as are deposited into the Fund under this section.

(2) DEPOSITS.—Subject to section 5 of this Act, from amounts received by the United States as qualified Outer Continental Shelf revenues there shall be deposited into the Fund $100,000,000 each fiscal year.

(b) AVAILABILITY.—Of amounts in the Fund up to $100,000,000 shall be available to the Secretary each fiscal year, without further appropriation, for providing financial assistance under section 802, and shall remain available until expended.

(c) INVESTMENT OF EXCESS AMOUNTS.—The Secretary of the Treasury shall invest moneys in the Fund that are excess to expenditures in public debt securities with maturities suitable to the needs of the Fund, as de-

termined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned on such investments shall be deposited into the Fund.

SEC. 805. DEFINITIONS.

In this title:

(1) ENDANGERED OR THREATENED SPECIES.—The term "endangered or threatened species" means any species that is listed as an endangered species or threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533).

(2) FAMILY FARM.—The term "family farm" means a farm that—

(A) produces agricultural commodities for sale in such quantities so as to be recognized in the community as a farm and not as a rural residence;

(B) produces enough income, including off-farm employment, to pay family and farm operating expenses, pay debts, and maintain the property;

(C) is managed by the operator;

(D) has a substantial amount of labor provided by the operator and the operator's family; and

(E) uses seasonal labor only during peak periods, and uses no more than a reasonable amount of full-time hired labor.

(3) FUND.—The term "Fund" means the Endangered and Threatened Species Recovery Fund established by section 804.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior or the Secretary of Commerce, in accordance with section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

(5) SMALL LANDOWNER.—The term "small landowner" means an individual who owns 50 acres or fewer of land.

(6) SPECIES RECOVERY AGREEMENT.—The term "species recovery agreement" means an Endangered and Threatened Species Recovery Agreement entered into by the Secretary under section 803.

○

Executive Director Kathleen Clarke's Testimony before the Congressional Hearing on CARA

June 12, 1999

On behalf of Governor Michael O. Leavitt, welcome to the state of Utah. Thank you Congressman Hansen and members of the U. S. House of Representatives Committee on Resources (Cannon and Cook) for the opportunity to speak today on behalf of the Conservation and Reinvestment Act of 1999, the most important national legislation for wildlife conservation, open space and state parks and recreation to reach the floor of Congress in our generation. The Utah Department of Natural Resources stands united with Governor Leavitt, many local elected officials and representatives of wildlife and outdoor recreation organizations from across Utah in our whole-hearted and enthusiastic support of this landmark legislation. Let me give you a few reasons why.

Wildlife-related recreation is in high demand by the citizens of our state, as evidenced by **this** (hold up Krannich Report) recently completed Utah State University report on public attitudes toward wildlife and wildlife-related recreation in Utah. According to the report, quote . . . "Utahns are highly interested in the state's fish and wildlife resources. . . . Clearly Utahns place substantial value on the state's wildlife resources, and view the protection and enhancement of those resources as important to the quality of life enjoyed by residents of the state." Unquote. I want to emphasize here that wildlife-related recreation now takes many forms, from traditional activities such as hunting and fishing to nonconsumptive activities such as birdwatching and photography.

Our mandate from Utahns is clear. Yet, for too long the funding necessary to manage many species of wildlife, and to preserve critical wildlife habitat has simply been unavailable.

The same may be said of our state parks and open space initiatives throughout Utah. Recreation needs have dramatically increased in the last 20 years. An average annual population increase of 2 percent has fueled the demand for more outdoor recreation opportunities in burgeoning urban growth centers from Logan to St. George. As open space disappears, and with it wildlife and outdoor recreation opportunities, there is great concern about preserving our "quality of life in Utah," and ensuring the social, economic and, yes, spiritual values that we all draw from direct contact with our natural world.

Sadly, funding for parks and recreation facilities from the federal Land and Water Conservation Fund has been virtually nonexistent over the last several years. At the same time, our unprecedented population growth has created an even greater need for parks, open space and recreation opportunities.

Since 1964, Utah has received nearly $40 million in LWCF, funding over 400 state parks and recreation projects. Nearly 70 percent of the funds have gone to cities and counties providing close-to-home recreation opportunities. These include such projects as Dimple Dell Regional Park, Sugar House Park, Shepard Lane Park and many other regional and neighborhood parks throughout the state.

LWCF has been essential to development of Utah's state park system. Projects funded with LWCF include state parks at Antelope Island, Bear Lake, Willard Bay, Utah Lake, Wasatch Mountain, Dead Horse Point and Snow Canyon.

Unfortunately, in recent years, several opportunities to enhance and broaden our parks network have slipped away. Many of our parks and recreational facilities are obsolete. Age and over-use have taken their toll on many of our premier state parks.

How will CARA help solve these problems? Of course you are all familiar with the three titles of the CARA legislation. Briefly, Title I is for coastal impact, Title II is for land-base recreation and Title III is for wildlife conservation.

Title II will provide a stable source of funding to:

1. Begin the daunting task of rebuilding our obsolete infrastructure and making needed capitol improvements to our state parks system to meet the demands of a growing population.

2. CARA will supply matching funds for cooperative state and local projects such as community parks and recreation facilities, preservation of open space and the creation of new recreational opportunities for Utah citizens.

3. Existing outdoor recreation experiences will be enhanced by building trails and preserving natural corridors for wildlife interpretation and viewing opportunities.

4. Working cooperatively, wildlife and state parks divisions will combine CARA funding to develop nature trails, interpretive signing and watchable wildlife sites within state and local parks to broaden and enhance visitors' overall outdoor experience.

Title III of the CARA legislation assists wildlife agencies by:

1. Providing a comprehensive approach to wildlife conservation funding, providing funding to address those species which are not fished or hunted. It will provide for greatly enhanced management of all wildlife, as well as new opportunities to address the problem of threatened and endangered species in Utah. CARA funding will allow biologists to monitor wildlife species and cooperatively manage important wildlife habitat so that many species never reach the threatened or endangered list.

2. CARA revenues could fund purchases of conservation easements, which leaves the land in private ownership, mostly ranches and farms, while preserving critical habitat for wildlife.

3. CARA will help pay for important wildlife education programs for schools and community groups to foster appreciation and responsible stewardship of all wildlife species.

4. It will provide matching funds for cooperative agreements with Utah cities and counties to manage indigenous wildlife while still providing for the economic growth and development of Utah communities off the Wasatch Front. The recently completed habitat conservation plan for Utah prairie dogs between Iron County, Division of Wildlife Resources and the U. S. Fish and Wildlife Service, as reported in *The Spectrum* in St. George, is an outstanding example of a cooperative agreement which benefits both wildlife and the citizens of Utah.

It should be noted that rather than purchase of lands, conservation easements, leases and cooperative agreements have become the preferred option in Utah and most western states for preserving critical habitat. Conservation easements also offer Utah forest landowners a solution to protect their forested land from development. Working cooperatively with the Utah Department of Natural Resources, willing landowners may preserve vital watershed and wildlife habitat while continuing to produce wood commodities in a sustainable fashion. As recently as last week, a 10,680 acre conservation easment was established on prime forest and watershed land utilizing Forest Legacy grants as a partnership stimulus. In this way, we can assure that the traditional uses of private lands and the public values of America's forest resources are protected for future generations.

Today fewer than 70 of Utah's over 700 resident wildlife species have a steady, reliable funding base to support their management. Passage of CARA will be a conservation milestone in Utah and the nation for maintaining wildlife diversity and keeping many species off the endangered species list.

The results of a survey conducted by sociologists at Utah State University indicated that Utah citizens were highly supportive of funding programs to manage for wildlife diversity. Furthermore, given a number of choices, they overwhelmingly preferred having these programs paid for by assessments on energy development. The message is clear--the Conservation and Reinvestment Act of 1999 is exactly what the people of Utah want.

A broad variety of outdoor recreation needs were documented during Governor Leavitt's recent "Utah Great Outdoors Conference." Representatives from every planning district in the state expressed the critical need for reliable and stable funding to keep pace with Utah's expanding population of "outdoor active" people. They also identified the need to replace facilities that are being used in new and more impacting ways, and to maintain critical habitat for wildlife.

What will CARA ultimately mean for Utah and the nation? It will 1) provide for the protection and restoration of our coastal habitats, 2) fund land and water conservation activities, providing essential recreational opportunities for our citizens and 3) provide a consistent and dedicated fund to the states to conserve our precious fish and wildlife resources. All of this will mean we can maintain our quality of life, as our cities and towns experience economic growth, especially in rural Utah.

Passage of CARA would recommit Congress and this nation to the vision that a part of the revenues earned from the depletion of non-renewable offshore oil and gas reserves should be invested in permanent assets that will serve the conservation and recreation needs of all Americans.

Congressman Hansen and members of the committee, once again we stand at the crossroads, faced with an unprecedented opportunity to preserve and enhance our natural resources for generations to come. Please work to enact legislation now for the sake of our children. Because if our children lose touch with the natural world, if they don't have a place under the sun to play, if they care more about video games and the internet that they do about wildlife and the outdoors, then our precious natural resources are in trouble, and so are our children.

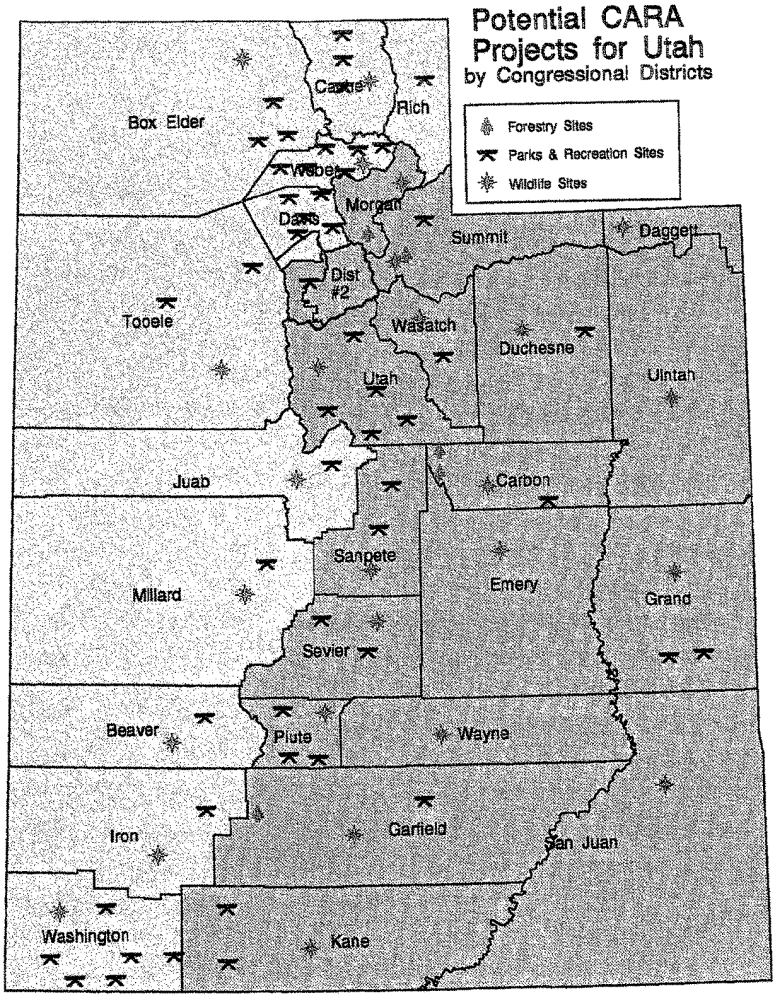
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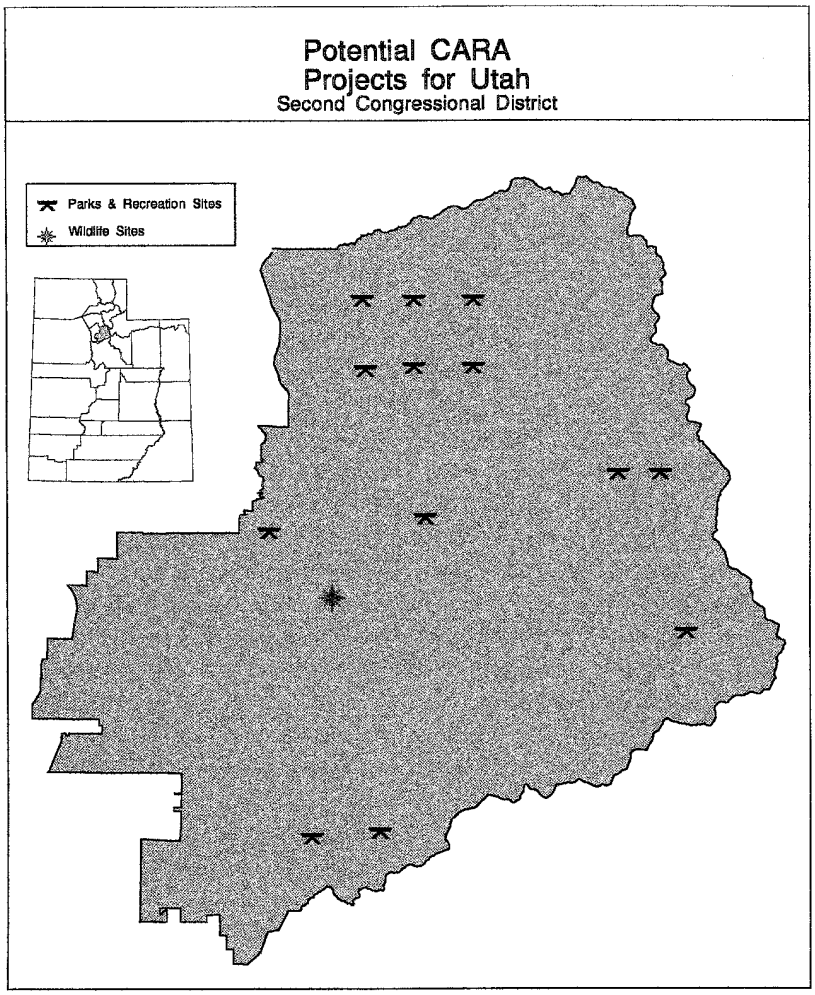


UTAH and CARA

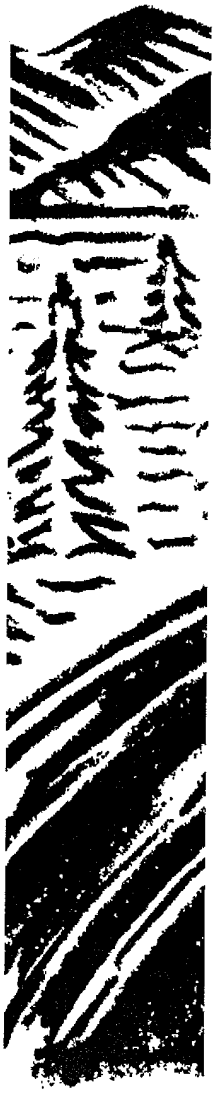
Conservation & Reinvestment Act of 1999

STATE OF UTAH
NATURAL RESOURCES

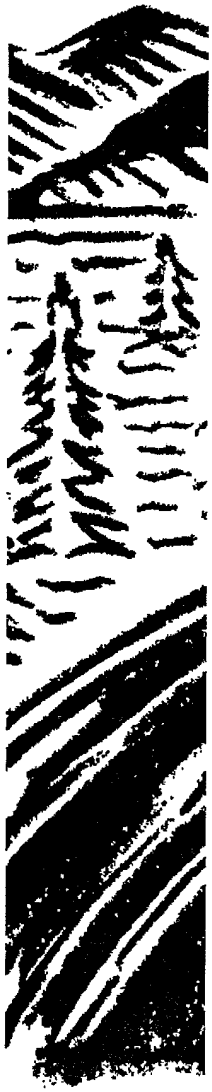

Potential CARA
Projects for Utah
by Congressional Districts
Forestry Sites
Parks & Recreation Sites
Wildlife Sites
Box Elder
Cache
Rich
Weber
Morgan
Davis
Summit
Daggett
Dist #2
Tooele
Wasatch
Duchesne
Uintah
Utah
Juab
Carbon
Sanpete
Millard
Emery
Grand
Sevier
Beaver
Piute
Wayne
Iron
Garfield
San Juan
Washington
Kane


Potential CARA
Projects for Utah
Second Congressional District
Parks & Recreation Sites
Wildlife Sites

Title II



- We will support any amendments to CARA that would include funding for the Forest Legacy Program (HR 798 includes $50 million). This is a great program that uses land easements to protect private property while enhancing forest sustainability and wildlife habitat.
- LWCF is not a narrowly focused, single purpose program. It may be used for broad a range of outdoor recreation facilities for nearly every interest and age group. LWCF has been used to acquire land for parks, open space and natural areas, and to develop playgrounds, swimming pools, ball fields, soccer fields, camping areas, picnic facilities, golf courses, marinas, tennis courts, etc.
- Many of Utah's state parks have received LWCF assistance. These include Bear Lake, Willard Bay, Antelope Island, Jordan River Parkway, Utah Lake, Wasatch Mountain, Palisade, Green River, Dead Horse Point, Otter Creek, and Snow Canyon state parks.
- Since 1964, Utah has received nearly $40 million in LWCF assistance. With the required match, this represents a total investment of $80 million in quality outdoor recreation facilities. Over 400 projects have been funded with nearly 70 percent of the funds going to cities and counties to provide close to home outdoor recreation opportunities.
- Life experiences play an important role in shaping a citizen who is respectful of others. Many point to early skills and discipline learned on the play field. Teamwork, self-actualization, respect for authority and pride are some of the benefits of recreation.
- We often take for granted some of the special places where our lives are shaped - public parklands. Parks provide an opportunity for exposure to the great outdoors while instilling an appreciation for the environment.
- LWCF has encouraged statewide recreation planning and has given states and their citizens tools to analyze recreation needs and alternatives in a systematic and responsive way. It has also encouraged local governments to develop recreation plans.
- Funding for LWCF has dwindled at a time when our population growth has created a greater need for parks, open space and recreation opportunities. The Utah Division of Parks and Recreation has requests for more than $14 million LWCF assistance.
- CARA recommits Congress to the vision that a portion of revenues earned from the depletion of a nonrenewable resource should be invested in permanent assets that will serve the conservation and recreation needs of all Americans.
- Because the LWCF Act requires that lands acquired and developed with the fund be maintained in perpetuity for recreation, the real heritage of the program is the thousands of park sites made available for future generations.



Title III

- Title III will provide a stable funding source for wildlife conservation at the state and local level. It will focus decisions on spending priorities for wildlife conservation and education at the local (not Washington) level, where states and communities are in the best position to know what their priorities and needs really are.
- Title III will not impact those who wish to keep private ownership of their land. Rather, the bill provides significant new revenues to be used to fund conservation easements, cooperative habitat conservation agreements, and wildlife conservation programs.
- Title III allows the state to work with private landowners in a non-regulatory, incentive-based manner to achieve their land management objectives consistent with good conservation for fish and wildlife species.
- Title III funding allows states to avoid the economic and social disruption which comes with listing wildlife species as threatened or endangered by taking preventative conservation measures early enough to address life needs and habitat requirements of declining fish and wildlife species before they reach a level where listing is necessary to protect them.
- Title III funding will be used to monitor populations of many sensitive wildlife species and others which are not yet threatened and develop aggressive, cooperative conservation strategies to preclude federal listing.
- Wildlife viewing is the number one outdoor activity in the United States and has become a billion-dollar industry. Title III funding positions local communities to take advantage of robust fish and wildlife populations through nature-based tourism opportunities such as bird watching and wildlife photography. Events like the Great Salt Lake Bird Festival in Davis County, the Desert Wildlife Festival in St. George and Snow Goose Days in Delta can bring significant income into our local communities.
- Through ensuring the conservation of good habitat for fish and wildlife, programs funded under Title III will ensure the quality of life for our citizens and future generations, since we all rely on the same life support systems.



Supporters of CARA

- Governor Mike Leavitt
- Utah DNR Executive Director Kathleen Clarke
- Utah Agriculture Commissioner Cary Peterson
- Salt Lake County Commission Chair Mary Callahan
- United States Conference on Mayors
  Salt Lake Mayor Deedee Corradini, President
- Utah League of Cities and Towns
- Brigham City
- City of Washington Terrace
- Clearfield City
- Farmington City
- North Ogden City
- Bountiful City
- Orem City
- Sandy City
- Murray City
- St. George City
- South Jordan City
- Payson City
- Moab City
- Cedar City
- Park City
- Kanab City
- Vernal City
- Naples City
- Richfield City
- Monroe City
- Provo City
- Sugar House Park Authority
- Cottonwood Heights Recreation
- Utah Recreation and Parks Association
- Utah Wildlife Federation
- Sportsman for Fish and Wildlife
- Salt Lake County Fish and Game Association
- Utah Chapters of the National Audubon Society
- Ducks Unlimited
- Mountainland Association of Governments
- National Association of Counties
- National Governors Association
- Western Governors Association

Michael O. Leavitt
Governor
Cary G. Peterson
Commissioner
Van Burgess
Deputy Commissioner

State of Utah
DEPARTMENT OF AGRICULTURE & FOOD

350 North Redwood Road
P.O. Box 146500
Salt Lake City, Utah 84114-6500
(801) 538-7100
(801) 538-7126 FAX

June 2, 1999

The Honorable James V. Hansen
United States Representative
242 Cannon Building
Washington, DC 20515

Jim

Dear Congressman Hansen:

Recently, the Conservation and Reinvestment Act of 1999 (CARA) was introduced in Congress as HR 701 and S. 25. As Commissioner of the Utah Department of Agriculture and Food as well as a representative of the State Soil Conservation Commission, I join Governor Leavitt in expressing my support for this legislation.

The passage of CARA would protect private property owners by creating a pool of money to help achieve cooperative conservation easements. This would allow agricultural uses on the land to continue while enhancing the wildlife value. When soil and water quality is properly managed, wildlife habitat is improved.

I respectfully encourage you to co-sponsor the passage of the Conservation and Reinvestment Act of 1999.

Sincerely,

Cary

Cary Peterson
Commissioner

THE UNITED STATES CONFERENCE OF MAYORS

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Mayor of Dallas
JIM MARSHALL
Mayor of Macon
GARY D. MC CALEB
Mayor of Abilene
PATRICK MC CRORY
Mayor of Charlotte
DAVID W. MOORE
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DONALD L. PLUSQUELLIC
Mayor of Akron
EDWARD RENDELL
Mayor of Philadelphia
KURT L. SCHMOKE
Mayor of Baltimore
Executive Director:
J. THOMAS COCHRAN

December 16, 1998

The Honorable U.S. Representative Don Young
Chair, U.S. House Committee on Resources
Committee on Resources
1324 Longworth House Office Building
Washington, DC 20515

RE: Conservation and Reinvestment Act 1998

Dear Representative Young:

As Mayor of Salt Lake City and as President of, U.S. Conference of Mayors, I endorse and support legislation that creates the Conservation and Reinvestment Act of 1998. Legislation that would require the federal government to reinvest Outer Continental Shelf (OSC) revenues into conservation programs, wildlife education and stateside recreation programming is greatly needed in my City and state, and in all 50 states of the Union. I am particularly pleased that your proposed legislation will revitalize and fund the stateside Land and Water Conservation Fund Matching Grant and Urban Park and Recreation Recovery Act program. In times past, both of these programs were a vital part of my City's efforts to revitalize and upgrade our public recreation resources. I fully suspect that my colleagues throughout the country feel the same way.

I am delighted to lend my support to this proposal. This legislation creates an opportunity for our national, state and municipal leaders to meet the current and future environmental and recreational needs of their constituents.

Sincerely,

Deedee Corradini
President

cc: U.S. Representative Jim Hansen
U.S. Representative Merrill Cook
U.S. Senator Orrin Hatch
U.S. Senator Robert Bennett

Mary Callaghan, *CHAIR*
Salt Lake County Commission

Sam Klemm
Administrative Assistant

SALT LAKE COUNTY

SALT LAKE COUNTY GOVERNMENT CENTER
2001 S. State Street
Suite N2100
Salt Lake City
Utah 84190-1000
Tel (801) 468-3350
Fax (801) 468-3535

June 2, 1999

The Honorable James Hansen
United States House of Representatives
2466 Rayburn Building
Washington, D.C. 20515

Dear Congressman Hansen:

As you know, the Conservation and Reinvestment Act of 1999 (CARA) has been introduced in both the House (H.R.701) and Senate (S.25). The legislation, which would redirect federal revenue from offshore oil and gas leases, includes three titles: Title I for funding of Coastal impact assistance; Title II for the Land and Water Conservation Fund; and Title III for wildlife conservation.

In Utah, Title II will provide funding for the development and maintenance of parks and recreation facilities, while Title III will provide the Utah Division of Wildlife Resources (DWR) with a stable funding source for wildlife conservation, education and recreation needs.

Wildlife management in Utah has been controversial, as wildlife managers and public officials have sought balance between the needs of wildlife and the needs of people. The need to preserve and protect sensitive, threatened and endangered species such as the desert tortoise, the Utah prairie dog and the spotted owl has sparked debate and rancor among city managers and county commissioners, who view these conservations demands as unfunded mandates.

CARA will provide badly needed funding to help us deal with these contentious issues. It will provide money to the DWR to help communities conserve and enhance critical habitat for wildlife species, precluding the need to place them on the threatened or endangered species list. It will also provide funding for the cooperative management of those species currently listed.

When you consider the growth Salt Lake County is experiencing, it is important to maintain and "catch up" urban parks to protect and maintain our quality of life. In addition, visitors from around the world come to Utah to take advantage of recreational, educational, and cultural opportunities that are unique to this area.

CARA funding would be used to create incentive for private landowners, city, and county governments to work cooperatively with state wildlife officials to negotiate conservation easements and agreements. Such programs would accommodate the needs of both wildlife and rural communities and help to preserve established and traditional land uses.

For these reasons, we strongly support the Conservation and Reinvestment Act of 1999 and urge you to vote for this landmark legislation on behalf of the wildlife and the people of Utah.

Sincerely,

Mary Callaghan, Chair
Salt Lake County Commission

MC/dd

COMMISSIONERS
Dennis E. Stowell
Lois L. Bulloch
Gene E. Roundy
CLERK – David I. Yardley
TREASURER – Maria H. Mitchell
RECORDER – Dide B. Matheson
ASSESSOR – Dennis W. Ayers
AUDITOR – Dennis A. Lowder
ATTORNEY – Scott M. Burns
SHERIFF – David W. Benson

IRON COUNTY
68 South 100 East, Parowan, Utah 84761 • Phone (435) 477-8300 Fax (435) 477-8647

June 4, 1999

Congressman Merrill Cook
125 South State Street
2311 Federal Building
Salt Lake City, UT 84138

Dear Congressman Cook:

As you know, the Conservation and Reinvestment Act of 1999 (CARA) has been introduced in both the House (H.R. 701) and the Senate (S. 25). The legislation, which would redirect revenue from offshore oil and gas leases, includes three titles: Title I for funding of Costal impact assistance. Title II for Land and Water Conservation Fund. Title III for Wildlife Conservation.

In Utah, Title II will provide funding for the development and maintenance of parks and recreation facilities, while Title III will provide the Utah Division of Wildlife Resources (DWR) with a stable funding source for wildlife conservation, education and recreation needs.

Wildlife management in Southern Utah has been controversial, as wildlife managers and public officials have sought balance between the needs of wildlife and the needs of people. The need to preserve and protect sensitive, threatened and endangered species has sparked debate and rancor among County Commissioners, City managers and citizens, who view these conservation demands as unfunded mandates.

CARA will provide needed funding to help us deal with these contentious issues. It will provide money to DWR to help communities conserve and enhance critical habitat for wildlife species, precluding the need to place them on the threatened or endangered species list. It will also provide funding for the cooperative management of those species currently listed.

CARA funding would be used to create incentives for private landowners, County and City governments to work cooperatively with state wildlife officials to negotiate conservation easements and agreements. Such programs would accommodate the needs of both wildlife and

rural communities and help to preserve established and traditional land uses.

For these reasons, we support the Conservation and Reinvestment Act of 1999 and urge you to vote for this legislation.

Sincerely yours
Board of Iron County Commissioners

Dennis E. Stowell
Chairman

WELCOME TO
BRIGHAM CITY
CORPORATION

Congressman James V. Hansen
U.S. House of Representatives
Washington, D.C. 20515

May 26, 1999

Dear Congressman Hansen:

Bipartisan legislation has recently been introduced in Congress that would revitalize the Land and Water Conservation Fund (LWCF) and establish a new non-game program known as Teaming With Wildlife (TWW). "The Conservation and Reinvestment Act of 1999" (H.R. 701) and the Senate companion bill (S.25), which is similar, would provide a specific percentage of the revenues generated from oil and gas leases on the Outer Continental Shelf (OCS) to the LWCF and TWW programs.

The LWCF program has been an important part of our effort to provide quality outdoor recreation facilities for the citizens of our community; however, there continues to be a critical need for funding to provide open space and recreation facilities to meet the needs of our growing population.

With these funds, Brigham City would purchase additional open space, develop new facilities to meet demands of recreation and help build a Recreation Center for year-round use. The LWCF program provides valuable "seed" funds to get projects started and service the needs of our citizens. The citizens of Brigham City are supportive of this type of funding to provide for needs now and to leave a legacy of outdoor recreation for future generations.

I hope that you will support this important legislation as it is considered during this session of Congress.

Sincerely,

Mayor David T. Kano
Brigham City, Utah

DTK/lec

PHONE: (435) 734-2001 • P.O. BOX 1005 • 20 NORTH MAIN, BRIGHAM CITY, UTAH 84302

city of Washington Terrace

Administration
275 East 4425 South, Washington Terrace, UT 84405-5899
• Phone: (801) 393-8681 • FAX: (801) 393-1921

COPY

June 1, 1999

Congressman James V. Hansen
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Hansen:

Bipartisan legislation has recently been introduced in Congress that would revitalize the Land and Water Conservation Fund (LWCF) and establish a new non-game program known as Teaming With Wildlife (T W W). "The Conservation and Reinvestment Act of 1999" (H.R. 701) and the Senate companion bill (S.25), which is similar, would provide a specific percentage of the revenues generated from oil and gas leases on the Outer Continental Shelf (OCS) to the LWCF and T W W programs.

The LWCF program has been an important part of our effort to provide quality outdoor recreation facilities for the citizens of our community; however, there continues to be a critical need for funding to provide open space and recreation facilities to meet the needs of our growing population.

I hope that you will support this important legislation as it is considered during this session of Congress.

Sincerely,

Konrad J. Hildebrandt
City Manager

/jl

cc: Lyle Bennett

Clearfield City

proud of our past.... keeping pace with the future

November 30, 1998

Representative Don Young
U.S. Senate
Washington, D.C. 20510

Dear Representative Young,

Thank you for introducing HR 4717, the Conservation and Reinvestment Act. As this bill moves forward please ensure full funding for the Land and Water Conservation Fund Statside Program. Stateside LWCF is important to my community because we have been able to develop several park projects throughout our community. We have been able to develop a community park with a softball complex, jogging trail, tennis courts, picnic shelter and restrooms. In another park we were able to add badly needed restrooms. By having these facilities available to the citizens that live in Clearfield we have been able to provide a place for people to improve their health through regular exercise, a place for social gathering and a place of beauty. In addition, land values of close proximity to park lands has been proven to be higher as printed by the 1997 Canadian Parks/Recreation Association.

With this renewed funding for Stateside LWCF, we plan to use these funds to develop capital facilities within our park system. We have been fortunate enough to acquire space, but are in great need to develop some of the space. Our goal is to provide quality park space, both active and passive, throughout the community.

I sincerely hope that you will continue to support HR 4717. Not only will this bill benefit Clearfield City, but through Stateside funding, efforts for development of parks throughout the nation will blossom.

Thank you,

Tracy Heun
Parks and Recreation Director
Clearfield City Corporation

40 South 125 East

CLEARFIELD RECREATION DEPARTMENT

Clearfield, Utah 84015
774-7270

Historic beginnings

GREGORY S BELL
Mayor

MAX FORBUSH
City Manager

DONA SCHARP
Finance Director/Recorder

LYNETTE BINGHAM
Treasurer

Farmington City
1847

PATRICIA N. ACHTER
DAVID J. DIXON
DAVID M. CONNORS
GARY E. ELLIOTT
LARRY W. HAUGEN
Council Members

130 North Main
P. O. Box 160
Farmington, Utah 84025-0160
Telephone (801) 451-2383

May 28, 1999

Congressman James V. Hansen
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Hansen:

Bipartisan legislation has recently been introduced in Congress that would revitalize the Land and Water Conservation Fund (LWCF) and establish a new non-game program known as Teaming With Wildlife (TWW). "The Conservation and Reinvestment Act of 1999" (H.R. 701) and the Senate Companion bill (S.25), which is similar, would provide a specific percentage of the revenues generated from oil and gas leases on the Outer Continental Shelf (OCS) to the LWCF and TWW programs.

The LWCF program has been an important part of our effort to provide quality outdoor recreation facilities for the citizens of our community; however, there continues to be a critical need for funding to provide open space and recreation facilities to meet the needs of our growing population.

Because funds have not been available under the LWCF program, Farmington has not been able to pursue many of the projects it has planned. Acquisition of open space and development of it is an important value to Farmington. Farmington has not received LWCF grants for over 10 years. The City would have applied but knew the likelihood of funding was nil because of the small allocation to the State of Utah. Past LWCF projects benefitting Farmington include:

- Main Park Improvements (1970's)
- Mountain View Park (1970's and early 1980's)
- Shepard Lane Park (mid- to late 1980's)

I hope you will support this important legislation.

Sincerely,

Gregory S Bell
Farmington City Mayor

GSB/MF/ml

NORTH OGDEN CITY

505 EAST 2600 NORTH
NORTH OGDEN UTAH 84414

Phone 782-7211
Fax 737-2219

MAYOR
Gary A.Harrop

COUNCIL
Dale E. Chatelain
Wayne Elwell
Jed Musgrave
Scott C. Russell
Dennis J. Taylor

June 1, 1999

Congressman James V. Hansen
242 Cannon Building
Washington, D.C. 20515

Dear Congressman Hansen:

On behalf of the North Ogden City Council, I am writing to you to request your support of the Conservation and Reinvestment Act of 1999. This act, as we understand it, would revitalize the LWCF and the UPARR programs. These two programs have been a valuable funding resource for local governments to meet the recreational, stream preservation, and open space requirements and desires of citizens in our communities.

North Ogden is no exception in its desire to make this community a place in which recreation, open space, and stream preservation are very important. In recent surveys, over 85 percent of the population thought that recreation and open space preservation were extremely vital to retaining the character of North Ogden. We have therefore applied for funding in order to purchase and to preserve elements of the North Ogden and Coldwater Creeks. We hope to purchase certain hillside and other parkland in the future to preserve open space and provide the community with the blessing that these developments offer to the relaxation, beauty, and recreation so needed in this fast-paced world.

We again would appreciate your support for this legislation and would ask that it allow for the broad latitude of local discretion in the use of these funds. If you have any questions, please feel free to contact me or the City Administrator, John Hendrickson, at (801) 782 - 7211.

With best regards,

Gary A. Harrop
Mayor

cc: Utah State Division of Parks and Recreation

Utah Wildlife Federation
Post Office Box 526367
Salt Lake City, Utah 84152-6367
Phone 801 487-1946

June 1, 1999

The Honorable James V. Hansen
United States House of Representatives
242 Cannon House Office Building
Washington, D.C. 20515-4401

Dear Representative Hansen,

As you know, Congress is currently debating several initiatives to enact permanent conservation funding for habitat restoration and wildlife conservation, funding that is strongly supported by the Utah Wildlife Federation (UWF). These proposals, including the Administration's Land Legacy Initiative, the Conservation and Reinvestment Act of 1999 (H.R. 701 & S.25) and the Permanent Protection for America's Resources 2000 (H.R. 798 & S. 446), represent an historic opportunity for the Congress to restore our damaged resources. As these initiatives are being debated, the UWF strongly encourages passage of conservation funding legislation that conforms to five basic principles. The legislation should:

- Assure permanent, dedicated funds that do not require annual Congressional appropriation;
- Assure the program does not reduce or divert funds that are currently available for other conservation purposes;
- Guarantee funding for the Land and Water Conservation Fund at the authorized $900 million level and divides those funds equally between federal and state programs; and
- Provide funds for coastal conservation efforts in a manner that does not create an incentive for coastal states and their local governments to support inappropriate new offshore oil and gas development and includes strong guidelines that limit funds to restoration and enhancement of coastal natural resources;

- Include funding for state fish and wildlife agencies that would support conservation, recreation and education programs for a diverse array of fish and wildlife species, especially nongame species.

A critical but historically neglected part of conservation funding is monies for nongame wildlife. The UWF and our members ask you to support conservation funding legislation that will specifically direct funds to nongame wildlife such as prairie dogs, burrowing owls, that reside in Utah.

Sportsmen and women have traditionally borne the brunt of wildlife conservation funding by purchasing hunting and fishing licenses and paying excise taxes on hunting and angling equipment. There is no similar reliable funding source for nongame wildlife. Thirty-two states have only 5% of their fish and wildlife budgets available for nongame programs. There are nearly 2,000 nongame species (those that are not hunted, not fished, and are not federally listed as endangered or threatened) nationwide and yet they receive less than 10% of the state fish and wildlife agency funding. This amounts to less than $100 million as compared to $1 billion spent annually for game programs.

Establishing substantial new funding that is prioritized for nongame wildlife will help prevent costly and controversial endangered or threatened species listings. In 1995, $312 million was spent for federally listed endangered and threatened species and fourteen percent of the species on the list received more than 90% of that funding. There are 227 species of plants and animals that are proposed for listing as endangered, threatened or candidate species. It makes sense to set aside funding to prevent the decline of wildlife species before they reach a crisis point when recovery is often more costly.

The UWF asks you to support conservation funding legislation that includes funding for wildlife conservation and prioritize these nongame species to address the unmet needs of nearly 90% of wildlife species. We urge you to support and vote for conservation funding legislation that:

- establishes a permanent funding stream that will allow state fish and wildlife agencies to be pro-active in the management of **all** wildlife species;

- requires an increased emphasis on nongame species to rectify the historic imbalance that has left these state programs underfunded;

- provides guidelines for state conservation plans that use the best available scientific information to establish the framework for pro-active conservation of fish and wildlife species;

- provides opportunities for meaningful public involvement throughout the planning and implementation process.

The UWF is eager to work with you to make passage of permanent conservation funding that prioritizes nongame wildlife a reality in this Congress.

Sincerely,



Gerald E. Gordon
Chair, Utah Wildlife Federation

cc:

Honorable Michael Leavitt, Governor of Utah
Kathleen Clarke, Executive Director, Utah Department of Natural Resources
John Kimball, Director, Utah Division of Wildlife Resources

UTAH Recreation & Parks Association

United States House of Representatives
WASHINGTON, DC 20515

June 1, 1999

The Honorable James V. Hansen
United States House of Representatives
Washington DC 20515

Dear Representative Hansen:

"The Conservation and Reinvestment Act of 1999" is, in our opinion, an extremely critical and timely piece of legislation. Our communities and our Nation need this bill, the provisions found therein and the funding allocations as recommended.

If fully funded, it would clearly produce measurable and lasting benefits for countless Utah citizens and the communities wherein they reside. The Utah Recreation and Parks Association (URPA), its four hundred and twenty professional members and the million plus citizens it serves and represents, strongly urge the passage of this bill and in particular full funding for the Land and Water Conservation Fund Stateside Program. A state affiliate of the National Recreation and Park Association, URPA and its network of recreation professionals and citizens wish to express to you their unwavering confidence that the wise use of funds made available through the Land and Water Conservation Fund (LWCF) Stateside Program would have the opportunistic potential of producing desirable individual, social, economic and environmental benefits for the citizens of Utah and many millions of Americans. The vision of these benefits extend to communities both large and small; for today and into the future.

Over the past thirty-five years some four hundred (400) projects throughout Utah have been funded in-part with Land and Water Conservation Fund monies. Of this prolific list of projects, nearly seventy percent (70%) of the funds have gone to cities and counties. Today, these same communities continue to enjoy the recreation resources that stand as a testament on behalf of and a valid substantiation for passage and full funding of the LWCF Stateside Program. The examples are endless and their value to the quality of life in Utah immeasurable. These projects range from a tennis court in the tiny community of Henefer, Utah to the expansive leisure resources on Rendezvous Beach along the beautiful shoreline of Bear Lake in northern Utah. Built nearly twenty years ago, the tennis court facility is utilized today by children and parents as frequently as it was when first built. Recreationists by the thousands come with their families and friends to visit Rendezvous Beach annually ; to enjoy its emerald blue waters, developed recreational facilities, and to build valuable and wholesome memories for a lifetime. Funded decades ago, this recreation haven continues to be both a popular in-state attraction, as well as, a favorite tourist destination.

favorite tourist destination.

Such a legacy can continue but only with full funding of this program. To discover the endless benefits associated with the state and local funding program would be to improve the quality of life and well being for millions of Americans. We wish to testify that the program's merits and its long-term impact on public park and recreation systems and services throughout the national recreation estate warrants your support and immediate action.

Respectfully,

Executive Board - Utah Recreation and Parks Association

L. Steven Carpenter, Exec. Director

Wayne Oberg, President

Viola Kinney, President-Elect

Dale Robinson, Past President

Fred Tamagawa, Exec. Treasure

UTAH RECREATION & PARKS ASSOCIATION
1151 No. Aspen Circle
Heber City, Utah 84032



Payson City

"Pioneer Square" at
439 West Utah Avenue, Payson Utah 84651
Telephone (801) 465 - 5200
Fax (801) 465 - 5208

MAYOR
Gordon Taylor

CITY COUNCIL
Van Canann
Bernell Evans
Duane Frisby
Jim Griffin
Pam Wilson

June 1, 1999

Congressman James V. Hansen
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Hansen:

Bipartisan legislation has recently been introduced in Congress that would revitalize the Land and Water Conservation Fund (LWCF) and establish a new non-game program known as Teaming With Wildlife (TWW). The Conservation and Reinvestment Act of 1999" (H.R. 701) and the Senate companion bill (S.25), which is similar, would provide a specific percentage of the revenues generated from oil and gas leases on the Outer Continental Shelf (OCS) to the LWCF and TWW programs.

The LWCF program has been an important part of our effort to provide quality outdoor recreation facilities for the citizens of our community; however, there continues to be a critical need for funding to provide open space and recreation facilities to meet the needs of our growing population. Some examples of how Payson City would utilize these funds are to improve Canyon Park, the creation of both the Dry Creek Corridor Trail, and the Canyon Trailhead Park.

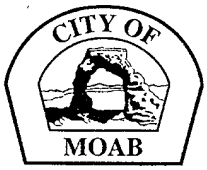
I hope that you will support this important legislation as it is considered during this session of Congress.

Sincerely,

Andy Hall
City Manager
AICP

cc: Lyle Bennett, State of Utah, Division of Parks and Recreation

CITY OF MOAB
115 WEST 200 SOUTH
MOAB, UTAH 84532-2534
MAIN NUMBER (435) 259-5121
FAX NUMBER (435) 259-4135



MAYOR: KARLA HANCOCK
COUNCIL: WILLIAM D. MCDOUGALD
RICHARD COOKE
JOSEPH LEKARCZYK
KYLE BAILEY
DAVE SAKRISON

June 7, 1999

Congressman James V. Hansen
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Hansen,

The City of Moab requests your support of (H.R. 701) to revitalize the Land and Water Conservation Fund and establish the Teaming for Wildlife program. The Conservation and Reinvestment Act of 1999 (H.R. 701) and the Senate companion bill (S. 25), which is similar, would provide a specific percentage of the revenues generated from oil and gas leases on the Outer Continental Shelf to the Land and Water Conservation Fund and Teaming with Wildlife programs.

The Land and Water Conservation Fund could provide quality outdoor recreation facilities for the citizens of our community. There is a critical need to provide open space and recreation facilities to meet the needs of our growing population. Moab is particularly interested in expanding the Mill Creek Flood Control and Parkway Project by purchasing riparian properties along Mill Creek and Pack Creek. The Land and Water Conservation fund could also help with the City's efforts to develop trails throughout the City.

I urge your sincere consideration for H.R. 701. Thank you.

Respectfully,

Karla Hancock

Karla Hancock, Mayor

MURRAY CITY CORPORATION

June 5, 1999

Congressman James V Hansen
U S House of Representatives
Washington DC 20515

Dear Representative Hansen:

Bipartisan legislation has recently been introduced in Congress that would revitalize the Land and Water Conservation Fund (LWCF) and establish a new non-game program known as Teaming With Wildlife (TWW). "The Conservation and Reinvestment Act of 1999" (H.R. 701) and the Senate Companion Bill (S.25), which is similar, would provide a specific percentage of the revenues generated from oil and gas leases on the Outer Continental Shelf (OCS) to the LWCF and TWW programs.

Murray City has been a beneficiary of the LWCF program in the past. In fact, most of our parks and recreation facilities have LWCF monies in them. I believe that without these matching dollars Murray City would not have been as successful in providing open space and recreation facilities during our years of growth.

One of the most important aspects of this programs is to make sure that these funds are available to local cities. Therefore, I encourage you to support this legislation and make sure that the monies generated flow to local communities.

Thank you for your consideration.

Respectfully,

Doug Hill
Public Services Director

cc: Mayor Daniel C. Snarr
Lyle Bennett, Utah Division of Parks and Recreation

Public Services Department • 4646 S 500 W • Murray UT 84123-3615 • (801) 270-2400 • Fax: (801) 270-2414

MOUNTAINLAND

Regional Planning Committee

Mayor Lewis Billings, Chair
City of Provo
Mayor Don Watkins
City of Alpine
Mayor Ted Barrett
City of American Fork
Mayor Jeanine Cook
Town of Cedar Fort
Mayor Brad Sears
Town of Cedar Hills
Mayor Gregg Ingram
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City of Orem
Mayor Gordon Taylor
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Mayor Edward Sanderson
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Mayor Larry Johnson
Town of Saratoga Springs
Mayor Dale Barney
City of Spanish Fork
Mayor Harold Wing
City of Springville
Mayor Rulon Gammon
Town of Vineyard
Mayor Nile Jensen
Town of Woodland Hills
Commissioner Jerry Grover
Utah County
Commissioner Hal Clyde
Utah Transportation Commission
Monta Rae Jeppson
Utah Transit Authority Board
Ursula Trueman
Utah Division of Art Quality

June 2, 1999

The Honorable
Senator Robert Bennett, R-UT
United States Senate
51 South University Ave, Suite 310
Provo, UT 84606

Dear Senator Bennett:

On behalf of the Mayors and County Commissioners in the urbanized area of Utah County I would like to affirm our support of the "Conservation and Reinvestment Act of 1999" (H.R. 701).

Utah County has been a direct benefactor of the Land and Water Conservation Fund Grant Program for the past 30 years. This important fund has assisted in the purchase or development of Hobble Creek Golf Course, Rock Canyon Trailhead, Utah Lake State Park, Provo River Parkway, and Alpine City's Burgess Park, to name only a few of the more than 50 Utah County projects. Without this investment program we believe that Utah County's livability and social fabric of recreation and health would not exist.

We encourage your support of this important legislation. H.R. 701 will continue to invest in the sustainable development of our traditional recreation oriented communities. This is the very framework which makes Utah County and the State of Utah a great place to live and raise a family.

If you have any questions or concerns please feel free to contact Shawn Seager, Mountainland staff, at the number below.

Sincerely,

Mayor Lewis K. Billings
Chair, Regional Planning Committee

586 East 800 North, Stratford Park • Orem, Utah 84097-4146 • (801) 229-3800 • Fax (801) 229-3801

○